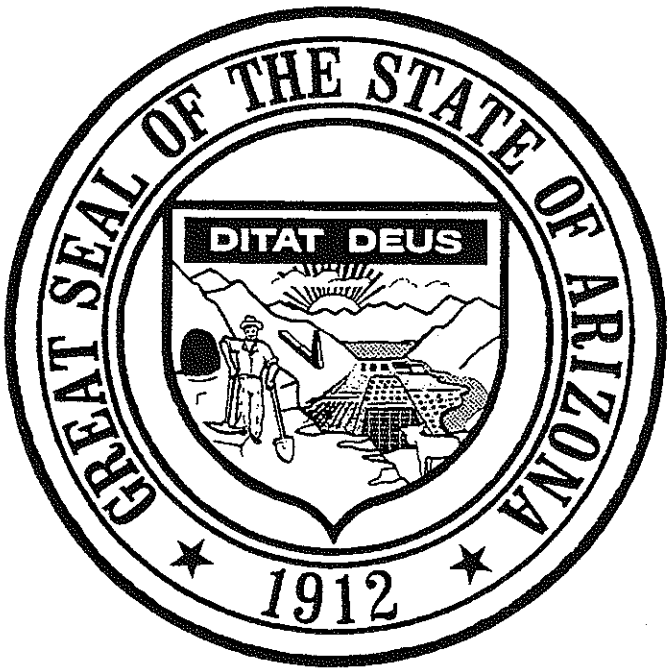
2001
BLENDS



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July 18, 2001

Pursuant to authority of section 41-1304.03, Arizona Revised Statutes, the attached sections are presented as blends or combination sections of law. The blends are based on multiple amendment activity that occurred in the recently completed legislative sessions.

For each blend the publisher will be instructed to indicate each of the Laws 2001 chapter versions in the source note and to include a reviser's note to explain the blend.

The following blend sections are included:

1.	4-205.04	(Chs. 268 and 352)
2.	8-202	(Chs. 6 and 334)
3.	8-526	(Chs. 187 and 223)
4.	10-122	(Chs. 238 and 300)
5.	10-3122	(Chs. 238 and 300)
6.	11-445	(Chs. 4 and 307)
7.	12-284	(Chs. 14 and 255)
8.	13-107	(Chs. 183 and 271)
9.	13-3601	(Chs. 217 and 334)
10.	15-203	(Chs. 56, 141, 231 and 241)
11.	15-901	(Chs. 233 and 312)
12.	15-1451	(Chs. 136, 138, 280 and 380)
13.	15-2002	(Chs. 11 and 23)
14.	15-2041	(Chs. 23 and 117)
15.	16-461	(Chs. 128 and 169)
16.	19-101	(Chs. 35 and 169)
17.	20-167	(Chs. 58 and 205)
18.	20-267	(Chs. 205 and 239)
19.	20-461	(Chs. 58 and 343)
20.	20-466	(Chs. 131 and 162)
21.	20-1057	(Chs. 324 and 344) Cond. Eff.
22.	20-1379	(Chs. 58 and 344) Cond. Eff.
23.	25-503	(Chs. 81 and 264)
24.	28-363	(Chs. 231 and 371)

25.	28-448	(Chs. 325 and 377)
26.	28-737	(Chs. 168 and 337)
27.	28-1381	(Chs. 95 and 253)
28.	28-2051	(Chs. 324 and 325) Effective 1/1/02
29.	28-2416	(Chs. 168, 287 and 371)
30.	28-6991	(Chs. 154, 316 and 337)
31.	28-6993	(Chs. 238, 316 and 337)
32.	28-8202	(Chs. 117 and 286)
33.	32-128	(Chs. 196 and 324)
34.	32-1451	(Chs. 88, 201, 214 and 270)
35.	32-3201	(Chs. 10 and 290)
36.	34-201	(Chs. 77 and 199)
37.	34-610	(Chs. 77 and 227)
38.	35-323	(Chs. 28 and 117)
39.	36-136	(Chs. 19, 21 and 82)
40.	36-275	(Chs. 165 and 387)
41.	36-2901*	(Chs. 218 and 385)
42.	36-2901*	(Chs. 218, 344 and 385) Cond. Eff.
43.	36-2903.01*	(Chs. 84 and 96)
44.	36-2903.01*	(Chs. 84, 96 and 344) Cond. Eff.
45.	36-2904	(Chs. 31 and 344) Cond. Eff.
46.	36-2921*	(Chs. 365, 374, 384 and 385)
47.	36-2921*	(Chs. 344, 365, 374, 384 and 385) Cond. Eff.
48.	36-2923	(Chs. 344 and 385) Cond. Eff.
49.	36-2932	(Chs. 96 and 153)
50.	36-2982*	(Chs. 360 and 385)
51.	36-2982*	(Chs. 344, 360 and 385) Cond. Eff.
52.	36-2983	(Chs. 344 and 360) Cond. Eff.
53.	36-2989	(Chs. 344 and 360) Cond. Eff.
54.	36-3408	(Chs. 60 and 344) Cond. Eff.
55.	38-651	(Chs. 127 and 288)
56.	38-727	(Chs. 136, 280 and 380)
57.	38-729	(Chs. 136, 280 and 380)
58.	38-760	(Chs. 136 and 380)
59.	38-783	(Chs. 136, 376 and 383)
60.	38-804	(Chs. 62, 280 and 380)
61.	38-815	(Chs. 280 and 380)
62.	38-817	(Chs. 376 and 383)
63.	38-844.03	(Chs. 59 and 349)
64.	38-851	(Chs. 280 and 380)
65.	38-857	(Chs. 376 and 383)
66.	38-902	(Chs. 280, 309 and 380)
67.	38-906	(Chs. 376 and 383)
68.	38-951	(Chs. 280 and 380)
69.	38-952	(Chs. 280 and 380)

70.	38-953	(Chs. 280 and 380)
71.	38-954	(Chs. 280 and 380)
72.	40-408	(Chs. 238 and 300)
73.	41-603	(Chs. 262, 335 and 348)
74.	41-1378	(Chs. 261 and 344) Cond. Eff.
75.	41-1505	(Chs. 22 and 368) Effective 1/1/02
76.	41-1505.11	(Chs. 22 and 368) Effective 1/1/02
77.	41-1518	(Chs. 22 and 368) Effective 1/1/02
78.	41-1713	(Chs. 212 and 231)
79.	41-1758.03	(Chs. 350 and 382)
80.	41-1954	(Chs. 231 and 344) Cond. Eff.
81.	41-2501*	(Chs. 18 and 100)
82.	41-2501*	(Chs. 18, 100 and 344) Cond. Eff.
83.	41-2752	(Chs. 302 and 315)
84.	41-2814	(Chs. 225 and 350)
85.	42-2003	(Chs. 115, 163 and 261)
86.	42-5061	(Chs. 115, 137, 287 and 314)
87.	42-5071	(Chs. 36 and 287)
88.	42-5075	(Chs. 115, 324 and 359)
89.	42-5159	(Chs. 137, 287 and 314)
90.	42-16108	(Chs. 186 and 267)
91.	42-16165	(Chs. 186 and 267)
92.	42-17153	(Chs. 242 and 267)
93.	44-313	(Chs. 117 and 146)
94.	44-2039	(Chs. 7, 238 and 300)
95.	46-134	(Chs. 265 and 344) Cond. Eff.
96.	48-262	(Chs. 69, 169 and 248)
97.	49-104	(Chs. 21 and 231)

EXPLANATION OF BLEND
SECTION 4-205.04

Laws 2001, Chapters 268 and 352

Laws 2001, Ch. 268, section 1 — Effective August 9

Laws 2001, Ch. 352, section 3 — Effective August 9

Explanation

Since these two enactments are identical, the Laws 2001, Ch. 268 and Ch. 352 text changes to section 4-205.04 are blended in the form shown on the following pages.

BLEND OF SECTION 4-205.04
Laws 2001, Chapters 268 and 352

4-205.04. Domestic farm winery or domestic microbrewery license; issuance; regulatory provisions; retail site

A. The director may issue a domestic farm winery or domestic microbrewery license to any domestic farm winery or domestic microbrewery. Each location which engages in producing and bottling these products must obtain a separate domestic farm winery or domestic microbrewery license, but both such licenses may be issued for a common location. The licensee may not transfer the domestic farm winery or domestic microbrewery license from person to person or from location to location.

B. An applicant for a domestic farm winery or domestic microbrewery license shall, at the time of filing the application for the license, accompany the application with the license fee. Persons holding a domestic farm winery or domestic microbrewery license shall report annually at the end of each fiscal year, at such time and in such manner as the director may prescribe, the amount of wine or beer manufactured by them during the fiscal year. If the total amount of wine or beer manufactured during the year exceeds the amount permitted annually by the license, the licensee shall apply for and receive an in-state producer's license.

C. Notwithstanding any other statute, a licensed domestic farm winery may sell wine produced or manufactured on the premises in the original container for consumption on or off the premises and may make sales and deliveries of wine to persons licensed to sell wine under this title. A licensed domestic farm winery may serve wine produced or manufactured on the premises for the purpose of sampling the wine.

Chs. 268 and 352

D. A licensed domestic farm winery IS SUBJECT TO ALL OF THE FOLLOWING REQUIREMENTS:

1. THE WINERY shall produce not less than two hundred gallons and not more than seventy-five thousand gallons of wine annually from grapes or other suitable agricultural products of which at least seventy-five per cent are grown in this state. The director may allow a percentage of out-of-state agricultural products greater than twenty-five per cent in wine manufactured or produced by a licensed domestic farm winery if the licensed domestic farm winery can demonstrate to the satisfaction of the director that sufficient in-state agricultural products are not available because of an unexpected failure of suitable in-state crops due to natural causes. The exemption shall remain in effect only for the period of time during which such shortages actually exist.

Chs. 268 and 352

2. THE WINERY MAY PURCHASE AND SELL WINE PRODUCED FROM A DOMESTIC FARM WINERY IF THE RETAIL SALE OF THE WINE IS CONDUCTED FROM THE SAME SITE AS THE LOCATION OF THE WINERY.

E. Notwithstanding any other statute, a licensed domestic microbrewery may sell beer produced or manufactured on the premises for consumption on or off the premises and may make sales and deliveries of beer to persons

licensed to sell beer under this title, including wholesalers licensed under this title. A licensed domestic microbrewery may serve beer produced or manufactured on the premises for the purpose of sampling the beer. A licensed domestic microbrewery is subject to all of the following requirements:

1. The microbrewery shall produce not less than ten thousand gallons of beer in each year following the first year of operation.

2. The microbrewery shall not produce more than three hundred ten thousand gallons of beer annually.

3. If retail operations are conducted in conjunction with the microbrewery, these retail operations shall be conducted from the same site as the location of the microbrewery.

Chs. 268 and 352

4. The microbrewery may sell other spirituous liquor ~~product~~ PRODUCTS if:

(a) The microbrewery holds an on-sale retail license.

(b) The retail sale of the spirituous liquor is on or adjacent to the premises of the microbrewery.

F. A person who holds a domestic microbrewery license that meets the requirements of this section and who is not otherwise engaged in the business of a distiller, vintner, brewer, rectifier, blender or other producer of spirituous liquor in any jurisdiction may hold other on-sale retail licenses. The person shall purchase all spirituous liquor for sale at the other on-sale retail premises from wholesalers who are licensed in this state.

G. The director shall adopt rules in order to administer this section.

EXPLANATION OF BLEND
SECTION 8-202

Laws 2001, Chapters 6 and 334

Laws 2001, Ch. 6, section 4 — Effective August 9

Laws 2001, Ch. 334, section 2 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 6 and Ch. 334 text changes to section 8-202 are blended in the form shown on the following page.

BLEND OF SECTION 8-202
Laws 2001, Chapters 6 and 334

8-202. Jurisdiction of juvenile court

A. The juvenile court has original jurisdiction over all delinquency proceedings brought under the authority of this title.

B. The juvenile court has exclusive original jurisdiction over all proceedings brought under the authority of this title except for delinquency proceedings ~~and proceedings brought pursuant to section 8-132~~. Ch. 6

C. The juvenile court may consolidate any matter, ~~other than~~ EXCEPT THAT THE JUVENILE COURT SHALL NOT CONSOLIDATE ANY OF THE FOLLOWING: Ch. 334

1. A criminal proceeding~~,~~ that is filed in another division of superior court and that involves a child who is subject to the jurisdiction of the juvenile court.

2. A DELINQUENCY PROCEEDING WITH ANY OTHER PROCEEDING THAT DOES NOT INVOLVE DELINQUENCY, UNLESS THE JUVENILE DELINQUENCY ADJUDICATION PROCEEDING IS NOT HEARD AT THE SAME TIME OR IN THE SAME HEARING AS A NONDELINQUENCY PROCEEDING.

D. The juvenile court has jurisdiction of proceedings to obtain judicial consent to the marriage, employment or enlistment in the armed services of a child, if consent is required by law.

E. The juvenile court has jurisdiction over both civil traffic violations and offenses listed in section 8-323, subsection B that are committed within the county by persons under eighteen years of age unless the presiding judge of the county declines jurisdiction of these cases. The presiding judge of the county may decline jurisdiction of civil traffic violations committed within the county by juveniles if the presiding judge finds that the declination would promote the more efficient use of limited judicial and law enforcement resources located within the county. If the presiding judge declines jurisdiction, juvenile civil traffic violations shall be processed, heard and disposed of in the same manner and with the same penalties as adult civil traffic violations.

F. The orders of the juvenile court under the authority of this chapter or chapter 3, 5 or 10 of this title take precedence over any order of any other court of this state except the court of appeals and the supreme court to the extent that they are inconsistent with orders of other courts.

G. Except as otherwise provided by law, jurisdiction of a child that is obtained by the juvenile court in a proceeding under this chapter or chapter 3, 5 or 10 of this title shall be retained by it, for the purposes of implementing the orders made and filed in that proceeding, until the child becomes eighteen years of age, unless terminated by order of the court before the child's eighteenth birthday.

H. Persons who are under eighteen years of age shall be prosecuted in the same manner as adults if either:

1. The juvenile court transfers jurisdiction pursuant to section 8-327.

2. The juvenile is charged as an adult with an offense listed in section 13-501.

EXPLANATION OF BLEND
SECTION 8-526

Laws 2001, Chapters 187 and 223

Laws 2001, Ch. 187, section 2 — Effective August 9

Laws 2001, Ch. 223, section 1 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 187 and Ch. 223 text changes to section 8-526 are blended in the form shown on the following pages.

BLEND OF SECTION 8-526
Laws 2001, Chapters 187 and 223

8-526. Child welfare; reporting requirements

A. The department shall compile the following information on a semiannual basis ending March 31 and September 30 of each year:

1. The total number of reports received, by major category and by priority. The report shall include a description of some of those incoming communications determined not to meet the criteria of a report as chosen by a random sample.

2. The number of reports not responded to, by priority, by county and statewide. The report shall include a description of some of these cases as chosen by random sample.

3. The number of reports responded to by priority and by major category, by county and statewide.

4. The number of reports with a substantiated finding after investigation, by priority, by county and statewide, that resulted in:

(a) The case being closed after an investigation.

(b) In-home services being provided after an investigation.

(c) Out-of-home services being provided after an investigation.

Ch. 223 — 5. THE NUMBER OF NEWBORN INFANTS DELIVERED TO SAFE HAVEN PROVIDERS PURSUANT TO SECTION 13-3623.01.

Ch. 187 — 6. THE NUMBER OF CHILDREN ENTERING OUT-OF-HOME CARE BY COUNTY DURING THE REPORTING PERIOD, AND THE NUMBER AND PERCENTAGE OF THE CHILDREN ENTERING OUT-OF-HOME CARE BY COUNTY DURING THE REPORTING PERIOD WHO ARE VOLUNTARY PLACEMENTS FOR CHILDREN UNDER EIGHTEEN YEARS OF AGE.

~~5.~~ 7. The number of direct client service positions that are vacant at the end of the reporting period.

~~6.~~ 8. The number and percentage of children who have remained in a shelter or receiving home for more than twenty-one consecutive days, by the child's age group.

~~7.~~ 9. The number and type of licensed foster homes and the number of licensed and available spaces in those homes.

~~8.~~ 10. The number and type of licensed foster homes that leave the foster care system and the reason for the exit.

~~9.~~ 11. The number of licensed foster homes that receive the required visitation by case managers pursuant to section 8-516.

~~10.~~ 12. The number of children placed in the care, custody and control of the department at the end of the reporting period and the number of these children who receive the required visitation by case managers pursuant to section 8-516.

~~11.~~ 13. The number and percentage of children who are in the care, custody and control of the department at the end of the reporting period and who are in out-of-home placement and as categorized by:

(a) Age.

(b) Ethnicity.

(c) Case plan goal.

(d) Type of out-of-home placement.

(e) Length of time in out-of-home placement of less than thirty days, thirty-one days to twelve consecutive months, twelve to twenty-four consecutive months and more than twenty-four consecutive months.

Ch. 187 — (f) PRIMARY LEGAL STATUS INCLUDING VOLUNTARY PLACEMENT FOR A CHILD UNDER EIGHTEEN YEARS OF AGE, TEMPORARY CUSTODY, ADJUDICATED DEPENDENT, FREE FOR ADOPTION, VOLUNTARY PLACEMENT FOR A CHILD OVER EIGHTEEN YEARS OF AGE, DUALLY ADJUDICATED OR ANY OTHER LEGAL STATUS.

~~12.~~ 14. If the case plan is to return the child to the parent, the percentage of parents who receive the required contact by case managers.

~~13.~~ 15. The number and percentage of children who left the custody of the department during the reporting period by reason for leaving care and as categorized by:

(a) Age.

(b) Ethnicity.

(c) Number of placements.

(d) Average length of time in care.

~~14.~~ 16. The number and percentage of children with a case plan goal of adoption and who are not placed in an adoptive home at the end of the reporting period and as categorized by:

(a) Age.

(b) Ethnicity.

(c) Average length of time in care.

(d) Legal status.

~~15.~~ 17. The number and percentage of children with a case plan goal of adoption and who are placed in an adoptive home at the end of the reporting period and as categorized by:

(a) Age.

(b) Ethnicity.

(c) Average length of time in out-of-home placement.

(d) Length of time from change of case plan goal to adoptive placement.

(e) Legal status.

~~16.~~ 18. The number of children whose adoptions were finalized during the reporting period and as categorized by:

(a) Average length of time in out-of-home placement before adoptive placement.

(b) Average length of time in adoptive placement before the final order of adoption.

B. Within three months after the end of each reporting period the department shall submit a written report in as brief a format as possible to the governor, the president of the senate, the speaker of the house of representatives, the chairperson of the house human services committee, the chairperson of the senate family services committee, or their successor committees, and the cochairpersons of the joint legislative committee on children and family services. The department shall submit a copy of the report to the secretary of state and the director of the Arizona state library, archives and public records.

EXPLANATION OF BLEND
SECTION 10-122

Laws 2001, Chapters 238 and 300

Laws 2001, Ch. 238, section 1 — Effective August 9

Laws 2001, Ch. 300, section 1 — Effective August 9

Explanation

Since these two enactments are identical, the Laws 2001, Ch. 238 and Ch. 300 text changes to section 10-122 are blended in the form shown on the following pages.

BLEND OF SECTION 10-122
Laws 2001, Chapters 238 and 300

10-122. Filing, service and copying fees; public access fund; expedited report filing and access

A. The commission shall collect and deposit, pursuant to sections 35-146 and 35-147, the following fees when the documents described in this subsection are delivered to it for filing or issuance:

	Document	Fee
1.	Articles of incorporation	$50
2.	Application for use of indistinguishable name	10
3.	Application for reserved name	10
4.	Notice of transfer of reserved name	10
5.	Application for registered name	10
6.	Application for renewal of registered name	10
7.	Agent's statement of resignation	10
8.	Amendment of articles of incorporation	25
9.	Restatement of articles of incorporation with amendment of articles	25
10.	Articles of merger or share exchange	100
11.	Articles of dissolution	25
12.	Articles of domestication	100
13.	Articles of revocation of dissolution	25
14.	Application for reinstatement following administrative dissolution, in addition to other fees and penalties due	100
15.	Application for authority	150
16.	Application for withdrawal	25
17.	Annual report	45
18.	Articles of correction	25
19.	Application for certificate of good standing	10
20.	Any other document required or permitted to be filed by chapters 1 through 17 of this title	25

B. The commission shall collect a fee of twenty-five dollars each time process is served on it under chapters 1 through 17 of this title. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

C. The commission shall charge and collect a reasonable fee for copying documents on request, provided the fee does not exceed the cost of providing the service as determined by the commission. The commission shall also charge a reasonable fee for certifying the copy of a filed document, provided the fee does not exceed the cost of providing the service as determined by the commission.

D. A penalty of one hundred dollars payable in addition to other fees accrues and is payable if a foreign corporation fails to file an amendment, restated articles that include an amendment, or articles of merger within sixty days of the time of filing in the jurisdiction in which the corporation is domiciled.

E. One-third of the filing fees for the annual report of domestic and foreign corporations paid pursuant to subsection A, paragraph 17 of this section shall be deposited in the Arizona arts trust fund established by section 41-983.01.

F. A public access fund is established consisting of the monies received pursuant to paragraphs 2, 3 and 4 of this subsection. Monies in the fund are subject to legislative appropriation. The following provisions apply to the fund:

1. The commission shall administer the fund and spend monies in the fund to purchase, install and maintain an improved data processing system on the premises of the commission AND FOR A PART OF THE GENERAL ADMINISTRATIVE AND LEGAL EXPENSES OF THE COMMISSION. The data processing system shall be designed to allow direct, on-line access by any person at a remote location to all public records that are filed with the commission pursuant to this title.

Chs. 238 and 300

2. The commission shall provide for and establish an expedited service for the filing of all documents and services provided pursuant to this title as follows:

(a) The expedited filing shall be a priority same day service effected in a fast and efficient manner.

(b) The commission shall charge a fee for expedited services, including those requested by telefacsimile transmission. This fee is in addition to any other fees provided by law, including those in this section. The fee for expedited services shall be set by the commission to cover the cost of the service.

3. The commission may charge persons who access the commission's data processing system from remote locations and persons requesting special computer generated printouts, reports and tapes a reasonable fee that does not exceed the cost of the time, equipment and personnel necessary to provide this service or product as determined by the commission.

4. In addition to any fee charged pursuant to this section, the commission may charge and collect the following fees to help defray the cost of the improved data processing system:

(a) Filing articles of incorporation of a domestic corporation, ten dollars.

(b) Filing an application of a foreign corporation for authority to transact business in this state, twenty-five dollars.

5. All monies received pursuant to paragraphs 2, 3 and 4 of this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the public access fund. The commission shall use the monies deposited in the fund for the purposes provided in this section. Fees charged pursuant to this section are exempt from section 39-121.03, subsection A, paragraph 3, relating to a charge for value of a reproduction on the commercial market. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations, except that any unencumbered monies in excess of two hundred thousand dollars at the end of each fiscal year revert to the state general fund.

6. When sufficient monies have been collected pursuant to paragraphs 2, 3 and 4 of this subsection to pay for the purchase and installation of the data processing system, the commission shall not charge and collect the fees prescribed in paragraph 4 of this subsection.

EXPLANATION OF BLEND
SECTION 10-3122

Laws 2001, Chapters 238 and 300

Laws 2001, Ch. 238, section 2 — Effective August 9

Laws 2001, Ch. 300, section 2 — Effective August 9

Explanation

Since these two enactments are identical, the Laws 2001, Ch. 238 and Ch. 300 text changes to section 10-3122 are blended in the form shown on the following pages.

BLEND OF SECTION 10-3122
Laws 2001, Chapters 238 and 300

10-3122. Filing, service and copying fees; public access fund; expedited report filing and access

A. The commission shall collect and deposit, pursuant to sections 35-146 and 35-147, in the state general fund the following fees when the documents described in this subsection are delivered for filing or issuance:

Document	Fee
1. Articles of incorporation	$ 30
2. Application for use of indistinguishable name	$ 10
3. Application for reserved name	$ 10
4. Notice of transfer of reserved name	$ 10
5. Application for registered name	$ 10
6. Application for renewal of registered name	$ 10
7. Agent's statement of resignation	$ 10
8. Amendment of articles of incorporation	$ 25
9. Restatement of articles of incorporation with amendment of articles	$ 25
10. Articles of merger or membership exchange	$100
11. Articles of dissolution	$ 25
12. Articles of domestication	$100
13. Articles of revocation of dissolution	$ 25
14. Application for reinstatement following administrative dissolution or revocation in addition to other fees and penalties due	$ 25
15. Application for authority	$150
16. Application for withdrawal	$ 25
17. Annual report	$ 10
18. Articles of correction	$ 25
19. Application for certificate of good standing	$ 10

B. The commission shall collect a fee of twenty-five dollars each time process is served on it under chapters 24 through 40 of this title. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding. The fee collected pursuant to this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

C. The commission shall charge and collect fifty cents per page for copying documents on request. The commission shall also charge five dollars plus fifty cents per page for certifying the copy of a filed document. The fees collected pursuant to this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

D. A penalty of one hundred dollars payable in addition to other fees accrues and is payable if a foreign corporation fails to file an amendment, restated articles that include an amendment, or articles of merger within sixty days of the time of filing in the jurisdiction in which the corporation is domiciled. The penalty collected pursuant to this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

E. The commission shall deposit, pursuant to sections 35-146 and 35-147, the monies received pursuant to paragraphs 2, 3 and 4 of this subsection in the public access fund established by section 10-122. Monies in the fund are subject to legislative appropriation. The following provisions apply to the fund:

1. The commission shall administer the fund and spend monies in the fund to purchase, install and maintain an improved data processing system on the premises of the commission AND FOR PART OF THE GENERAL ADMINISTRATIVE AND LEGAL EXPENSES OF THE COMMISSION. The data processing system shall be designed to allow direct, on-line access by any person at a remote location to all public records that are filed with the commission pursuant to this title.

Chs. 238 and 300

2. The commission shall provide for and establish an expedited service for the filing of articles of incorporation, application of foreign corporations for authority to conduct affairs in this state, amendments, articles of merger or consolidation, statements of intent to dissolve, application of withdrawal of foreign corporations, annual reports and applications to reserve corporate name, as follows:

(a) The expedited filing shall be a priority same day service effected in a fast and efficient manner.

(b) The commission shall charge a fee for expedited services, including those requested by telefacsimile transmission. This fee is in addition to any other fees provided by law, including those in this section. The fee for expedited services shall be set by the commission to cover the cost of the service.

3. The commission may charge persons who access the commission's data processing system from remote locations and persons requesting special computer generated printouts, reports and tapes a reasonable fee that does not exceed the cost of the time, equipment and personnel necessary to provide this service or product as determined by the commission.

4. In addition to any fee charged pursuant to this section, the commission may charge and collect the following fees to help defray the cost of the improved data processing system:

(a) Filing articles of incorporation of a domestic corporation, ten dollars.

(b) Filing an application of a foreign corporation for authority to transact business in this state, twenty-five dollars.

5. All monies received pursuant to paragraphs 2, 3 and 4 of this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the public access fund. The commission shall use the monies deposited in the fund for the purposes provided in this section. Fees charged pursuant to this section are exempt from section 39-121.03, subsection A, paragraph 3, relating to a charge for value of a reproduction on the commercial market. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations, except that any unencumbered monies in excess of two hundred thousand dollars at the end of each fiscal year revert to the state general fund.

6. When sufficient monies have been collected pursuant to paragraphs 2, 3 and 4 of this subsection to pay for the purchase and installation of the data processing system, the commission shall not charge and collect the fees prescribed in paragraph 4 of this subsection.

EXPLANATION OF BLEND
SECTION 11-445

Laws 2001, Chapters 4 and 307

Laws 2001, Ch. 4, section 2 — Effective August 9

Laws 2001, Ch. 307, section 1 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 4 and Ch. 307 text changes to section 11-445 are blended in the form shown on the following pages.

BLEND OF SECTION 11-445
Laws 2001, Chapters 4 and 307

11-445. Fees chargeable in civil actions by sheriffs, constables and private process servers; authority of private process servers; background investigation; constables' logs

A. The sheriff shall receive the following fees in civil actions:

1. Serving each true copy of the original summons in a civil suit, ~~ten~~ SIXTEEN dollars.

2. Summoning each witness, ~~ten~~ SIXTEEN dollars.

3. Levying and returning each writ of attachment or claim and delivery, ~~thirty~~ FORTY-EIGHT dollars.

4. Taking and approving each bond and returning it to the proper court when necessary, ~~seven dollars fifty cents~~ TWELVE DOLLARS.

5. Endorsing the forfeiture of any bond required to be endorsed by him, ~~seven dollars fifty cents~~ TWELVE DOLLARS.

6. Levying each execution, ~~fifteen~~ TWENTY-FOUR dollars.

7. Returning each execution, ~~ten~~ SIXTEEN dollars.

8. Executing and returning each writ of possession or restitution, ~~thirty~~ FORTY-EIGHT dollars plus a rate of ~~twenty-five~~ FORTY dollars per hour per deputy for the actual time spent in excess of three hours.

9. Posting the advertisement for sale under execution, or any order of sale, ~~seven dollars fifty cents~~ TWELVE DOLLARS.

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10. Posting or serving any notice, process, writ, order, pleading or paper required or permitted by law, not otherwise provided for, ~~ten~~ SIXTEEN dollars.

11. Executing a deed to each purchaser of real property under execution or order of sale, ~~fifteen~~ TWENTY-FOUR dollars.

12. Executing a bill of sale to each purchaser of real and personal property under an execution or order of sale, when demanded by the purchaser, ~~ten~~ SIXTEEN dollars.

13. For services in designating a homestead or other exempt property, ~~seven dollars fifty cents~~ TWELVE DOLLARS.

14. For receiving and paying money on redemption and issuing a certificate of redemption, ~~fifteen~~ TWENTY-FOUR dollars.

15. Serving and returning each writ of garnishment and related papers, ~~twenty-five~~ FORTY dollars.

16. For the preparation, including notarization, of each affidavit of service or other document pertaining to service, ~~five~~ EIGHT dollars.

B. The sheriff shall also collect the appropriate recording fees ~~where~~ IF applicable and other appropriate disbursements.

C. The sheriff may charge:

1. ~~Thirty-five~~ FIFTY-SIX dollars plus disbursements for any skip tracing services performed.

2. A reasonable fee for storing personal property levied on pursuant to title 12, chapter 9.

D. For traveling to serve or on each attempt to serve civil process, writs, orders, pleadings or papers, the sheriff shall receive ~~one dollar fifty cents~~ TWO DOLLARS FORTY CENTS for each mile actually and necessarily traveled but, in any event, not to exceed two hundred miles, nor to be less than ~~ten~~ SIXTEEN dollars. Mileage shall be charged one way only. For service made or attempted at the same time and place, regardless of the number of parties or the number of papers so served or attempted, only one charge for travel fees shall be made for such service or attempted service.

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E. For collecting money on an execution when it is made by sale, the sheriff and the constable shall receive ~~five~~ EIGHT dollars for each one hundred dollars or major portion thereof not to exceed a total of two thousand dollars, but when money is collected by the sheriff without a sale, only one-half of such fee shall be allowed. When satisfaction or partial satisfaction of a judgment is received by the judgment creditor after the sheriff or constable has received an execution on the judgment, the commission is due the sheriff or constable and is established by an affidavit of the judgment creditor filed with the officer. If the affidavit is not lodged with the officer within thirty days of the request, the commission shall be based on the total amount of judgment due as billed by the officer and may be collected as any other debt by that officer.

F. The sheriff shall be allowed for all process issued from the supreme court and served by ~~him~~ THE SHERIFF the same fees as are allowed ~~him~~ THE SHERIFF for similar services upon process issued from the superior court.

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G. The constable shall receive the same fees as the sheriff for performing the same services in civil actions, except that mileage shall be computed from the office of the justice of the peace originating the civil action to the place of service.

H. Private process servers duly appointed or registered pursuant to rules established by the supreme court may serve all process, writs, orders, pleadings or papers required or permitted by law to be served prior to, during, or independently of a court action, including all such as are required or permitted to be served by a sheriff or constable, except writs or orders requiring the service officer to sell, deliver or take into ~~his~~ THE OFFICER'S custody persons or property, or as may otherwise be limited by rule established by the supreme court. A private process server is an officer of the court. As a condition of registration, the supreme court shall require each private process server applicant to furnish a full set of fingerprints to enable a criminal background investigation to be conducted to determine the suitability of the applicant. The completed applicant fingerprint card shall be submitted with the fee prescribed in section 41-1750 to the department of public safety. The applicant shall bear the cost of obtaining the applicant's criminal history RECORD information. The cost shall not exceed the actual cost of obtaining the applicant's criminal history RECORD information. Applicant criminal history records checks shall be conducted pursuant to section 41-1750 and Public Law 92-544. The department of public safety is authorized to exchange the submitted applicant fingerprint card

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information with the federal bureau of investigation for a ~~national~~ FEDERAL criminal ~~history~~ records check. A private process server may charge such fees for ~~his~~ services as may be agreed upon between ~~him~~ THE PROCESS SERVER and the party engaging ~~him~~ THE PROCESS SERVER. ~~However, a party adjudged entitled to recover his costs of suit in any civil action shall be awarded in any such judgment or order for the costs of service made by a private process server only the amount actually charged the party by such private process server or the amount which a sheriff or constable would have been authorized to charge the party for the same service, whichever is less.~~

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I. Constables shall maintain a ~~record~~ LOG of work related activities including A LISTING OF all processes served AND THE NUMBER OF PROCESSES ATTEMPTED TO BE SERVED by case number ~~and~~, the names of the plaintiffs and defendants, THE NAMES AND ADDRESSES OF THE PERSON TO BE SERVED EXCEPT AS OTHERWISE PRECLUDED BY LAW, THE DATE OF PROCESS AND THE DAILY MILEAGE.

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J. The ~~record~~ LOG MAINTAINED IN SUBSECTION I OF THIS SECTION is a public record and shall be made available by the constable at ~~his~~ THE CONSTABLE'S office during regular office hours. Copies of the ~~record~~ LOG shall be filed ~~annually in~~ MONTHLY WITH THE CLERK OF the justice court AND WITH THE CLERK OF THE BOARD OF SUPERVISORS.

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EXPLANATION OF BLEND
SECTION 12-284

Laws 2001, Chapters 14 and 255

Laws 2001, Ch. 14, section 1 — Effective August 9

Laws 2001, Ch. 255, section 1 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 14 and Ch. 255 text changes to section 12-284 are blended in the form shown on the following pages.

BLEND OF SECTION 12-284
Laws 2001, Chapters 14 and 255

12-284. Fees

A. Except as otherwise provided by law, the clerk of the superior court shall receive fees classified as follows:

Class	Description	Fee
A	Initial case filing fee	
	Tax case	$115.00
	Filing complaint or petition	115.00
	Filing intervenor	115.00
	Additional plaintiffs	115.00
	Filing foreign judgment	115.00
	Ownership of real property becomes an issue	
	Plaintiff	115.00
Ch. 255	Appellant (EXCEPT UNDER SECTION 12-2107)	115.00
	Change of venue to this county	115.00
	Petition for change of name	115.00
	Filing a process server application	115.00
B	Subsequent case filing fee	
	Filing answer or initial appearance	$ 61.00
	Additional defendants	61.00
	Notice of appeal to appellate courts	61.00
Ch. 255	Cross-appeal by appellee (EXCEPT UNDER SECTION 12-2107)	61.00
	Ownership of real property becomes an issue	
	Defendant	61.00
	Jurisdiction exceeded appellee	
	(within 20 days of filing)	61.00
	Response to show cause which does one or more of the following:	
	1. Request affirmative or counterrelief	
	2. Attacks process of proceedings	
	3. Takes other affirmative action	61.00
C	Initial case filing fee	
	Filing petition for annulment	$ 91.00
	Filing for dissolution/legal separation petition	91.00
	Petition in formal testacy or appointment proceeding	91.00
	Application for informal probate or informal appointment	91.00
	Petition for supervised administration petition to appoint guardian	91.00
	Petition to appoint conservator or make other protective order	91.00
	Opposing petition in testacy or appointment proceedings or appointment of guardian or conservator	91.00
	Single estate application or petition under title 14, chapter 3, section 14-3938	91.00

	Domestic relations case for which a fee is not specifically prescribed	91.00
D	Subsequent case filing fee	
	Filing answer to annulment	$ 46.00
	Filing for dissolution/legal separation answer	46.00
	Any person opposing contested petition if no prior payment made	46.00
	Post-adjudication petitions in domestic relations cases	46.00
	Post-judgment activities in probate cases	46.00
E	Minimum clerk fee	
	Filing power of attorney	$ 18.00
	Change of venue to another county transmittal fee	18.00
	Change of venue to another county on section 12-404, transmittal fee	18.00
	Filing transcript and docketing judgment from any courts	18.00
	Issuance of writs of: attachment, execution, possession, restitution, prohibition and enforcement of order of judgment-garnishment	18.00
	Certified copy or abstract of marriage application or license	18.00
	Filing oath and bond of notary public	18.00
	Certificate of correctness of copy of record	18.00
	Justice of peace certificate	18.00
	Notary public certificate	18.00
	Each certificate of clerk to any matter in clerk's record not specifically provided	18.00
	Filing any paper or performing any act for which a fee is not specifically prescribed	18.00
	Subpoena - (civil)	18.00
	Research in locating a document (per year or source researched)	18.00
	Exemplification (per certification)	18.00
	Authentication (per certification)	18.00
	Seal a court file	18.00
	Reopen a sealed court file	18.00
	Retrieve bank records	18.00
	Reel of film alpha index per year (plus per page fee below)	18.00
	Payment history report	18.00
	Certification under one document certification	18.00
	Civil traffic appeal	18.00
F	Per page fee	
	Making copies (on appeal and on request) per page	$ .50
	Making extra copies per page	.50
	Making photographic or photostatic copies per page	.50

	Comparison fee of papers furnished by applicant per page	.50
	Alpha index per page	.50
G	Special fees	
	Filing adoption case	$ 30.00
	Contested adoption	15.00
	Small claim tax case	15.00
	~~Filing petition against harassment~~	~~5.00~~
Ch. 255	~~Domestic violence, order of protection pursuant to section 13-3602~~	~~5.00~~
	Marriage license and return hereof	50.00
	Postage and handling	5.00
	Notary services	5.00
	Stop payment on check	10.00

B. The clerk of the superior court shall receive the fees prescribed in subsection A of this section for the following services:

1. Making copies of papers and records required to be made by the clerk on appeal, and copies of papers and records in the clerk's office made on request in other cases, for each legal size page of original.

2. Making extra copies of the papers and records mentioned in paragraph 1 of this subsection, required or requested for each page of copy of such papers and records.

3. In a clerk's office, in which a photographic or photostatic method of recording is used or is available for use in cooperation with other public offices, preparing copies enumerated in paragraphs 1 and 2 of this subsection for each page of copy or fraction of a page of copy. Portions of several pages of records may be combined in one page of copy. The clerk may prepare an abstract of marriage in lieu of a reproduction of the recorded marriage license. The fee shall apply to matters whether recorded in such office by longhand, typing, electronic, photographic or photostatic methods. The fees for copies are exclusive of the fees for certification or authentication.

4. Issuing a certificate as to official capacity of a notary public or justice of the peace and affixing a seal thereto.

5. Each subpoena issued in a civil proceeding or filing any paper or performing any act for which a fee is not specifically prescribed by law, but the clerk shall not charge for the clerk's services in administering the oath in connection with any affidavit, petition, letters or other pleading or document which, after administration of the oath therefor, is promptly filed by the clerk and becomes a part of a case or matter of record in the office of the clerk.

C. In addition to the fees required by subsection A of this section, the clerk shall charge and collect a surcharge of fifteen dollars for each filing of a post-adjudication petition in a domestic relations case for which a fee presently is charged under class D in subsection A of this section. The surcharge shall be used exclusively to fund domestic relations education and mediation programs established pursuant to section 25-413. Each month the clerk shall transmit the monies the clerk collects pursuant to this subsection to the county treasurer for deposit in the domestic relations education and mediation fund established by section 25-413.

D. Excluding the monies that are collected pursuant to subsection C of this section, each month the clerk shall transmit seventy-five per cent of the monies collected for subsequent case filing fees for ~~post-adjudication~~ POSTADJUDICATION petitions in domestic relations cases under class D in subsection A of this section to the county treasurer for deposit in the expedited child support and ~~visitation~~ PARENTING TIME fund established pursuant to section 25-412. The remaining twenty-five per cent of the monies collected pursuant to this subsection shall be distributed pursuant to section 12-284.03.

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E. At the commencement of each action for annulment, for dissolution of marriage or for legal separation, the petitioner shall pay to the clerk of the court the initial case filing fee for the action provided in subsection A of this section. At the time of filing a response, the respondent shall pay to the clerk of the court the subsequent case filing fee for the action provided in subsection A of this section. In each county where the superior court has established a conciliation court, the petitioner and respondent shall each pay to the clerk a sixty-five dollar fee. The monies from the additional fee shall be used to carry out the purposes of the conciliation court pursuant to title 25, chapter 3, article 7.

F. In garnishment matters:

1. A fee shall not be charged for filing an affidavit seeking only the release of exempt wages.

2. A fee shall not be charged for filing a garnishee's answer, for filing a judgment against the garnishee or for the issuance or return of process incident to such a judgment.

3. For any contest relating to or any controversion of a garnishment matter, unless the contesting party has paid an appearance fee in that cause, the required appearance fee shall be paid, except that the garnishee shall not pay a clerk's fee.

G. A person who is cited to appear and defend an order to show cause shall not be charged an appearance fee. The person may stipulate to or consent to the entry of an order without the payment of an appearance fee. An appearance fee shall be paid if the person is present in person or by an attorney and does one or more of the following:

1. Requests affirmative relief or counterrelief.

2. Attacks the sufficiency of process or the proceedings.

3. Takes other affirmative action.

H. A PETITIONER SHALL NOT BE CHARGED A FEE FOR REQUESTING AN ORDER OF PROTECTION PURSUANT TO SECTION 13-3602 OR AN INJUNCTION AGAINST HARASSMENT PURSUANT TO SECTION 12-1809. A defendant shall not be charged an answer fee in an order of protection action if the defendant requests a hearing pursuant to section 13-3602, subsection I or in an injunction against harassment action if the defendant requests a hearing pursuant to section 12-1809, subsection ~~G~~ H.

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I. A person who files a registrar's order pursuant to section 32-1166.06 shall not be charged a fee.

J. Except for monies that are collected pursuant to subsections C, D and E of this section, the clerk of the superior court shall transmit monthly to the county treasurer all monies collected pursuant to this section for distribution or deposit pursuant to section 12-284.03.

EXPLANATION OF BLEND
SECTION 13-107

Laws 2001, Chapters 183 and 271

Laws 2001, Ch. 183, section 1 — Effective August 9

Laws 2001, Ch. 271, section 1 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 183 and Ch. 271 text changes to section 13-107 are blended in the form shown on the following page.

BLEND OF SECTION 13-107
Laws 2001, Chapters 183 and 271

13-107. Time limitations

Chs. 183 and 271 / Ch. 183 / Ch. 271

A. A prosecution for any homicide, [ANY OFFENSE LISTED IN TITLE 13, CHAPTER 14 OR CHAPTER 35.1 THAT IS A CLASS 2 FELONY,] ANY VIOLENT SEXUAL ASSAULT PURSUANT TO SECTION 13-1423, [ANY] misuse of public monies or a felony involving falsification of public records OR ANY ATTEMPT TO COMMIT AN OFFENSE LISTED IN THIS SUBSECTION may be commenced at any time.

B. Except as otherwise provided in this section, prosecutions for other offenses must be commenced within the following periods after actual discovery by the state or the political subdivision having jurisdiction of the offense or discovery by the state or ~~such~~ THE political subdivision ~~which~~ THAT should have occurred with the exercise of reasonable diligence, whichever first occurs:

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1. For a class 2 through a class 6 felony, seven years.
2. For a misdemeanor, one year.
3. For a petty offense, six months.

C. For the purposes of subsection B OF THIS SECTION, a prosecution is commenced when an indictment, information or complaint is filed.

D. The period of limitation does not run during any time when the accused is absent from the state or has no reasonably ascertainable place of abode within the state.

E. The period of limitation does not run for a serious offense as defined in section 13-604 during any time when the identity of the person who commits the offense or offenses is unknown.

F. The time limitation within which a prosecution of a class 6 felony shall commence shall be determined pursuant to subsection B, paragraph 1 OF THIS SECTION, irrespective of whether a court enters a judgment of conviction for or a prosecuting attorney designates such offense as a misdemeanor.

Chs. 183 and 271

G. If a complaint, indictment or information filed before the period of limitation has expired is dismissed for any reason, a new prosecution may be commenced within six months after the dismissal becomes final even if the period of limitation has expired at the time of the dismissal or will expire within six months of ~~such~~ THE dismissal.

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EXPLANATION OF BLEND
SECTION 13-3601 (as amended by Laws 2000, Ch. 370, section 1)

Laws 2001, Chapters 217 and 334

Laws 2001, Ch. 217, section 2 — Effective August 9

Laws 2001, Ch. 334, section 20 — Effective August 9

Explanation

Since the Ch. 217 version includes all of the changes made by the Ch. 334 version, the Laws 2001, Ch. 217 amendment of section 13-3601 is the blend of both the Laws 2001, Ch. 217 and Ch. 334 versions.

BLEND OF SECTION 13-3601 (as amended by Laws 2000, Ch. 370, section 1)
Laws 2001, Chapters 217 and 334

13-3601. Domestic violence; definition; classification; sentencing option; arrest and procedure for violation; weapon seizure; notice; report; diversion

A. "Domestic violence" means any act which is a dangerous crime against children as defined in section 13-604.01 or an offense defined in section 13-1201 through 13-1204, 13-1302 through 13-1304, 13-1502 through 13-1504 or 13-1602, section 13-2810, section 13-2904, subsection A, paragraph 1, 2, 3 or 6, section 13-2916 or section 13-2921, 13-2921.01, 13-2923[, 13-3019, 13-3601.02] or 13-3623, if any of the following [~~apply~~ APPLIES]:— Ch. 217 — Chs. 217 and 334

1. The relationship between the victim and the defendant is one of marriage or former marriage or of persons residing or having resided in the same household.

2. The victim and the defendant have a child in common.

3. The victim or the defendant is pregnant by the other party.

4. The victim is related to the defendant or the defendant's spouse by blood OR COURT ORDER as a parent, grandparent, child, grandchild, brother or sister or by marriage as a parent-in-law, grandparent-in-law, STEPPARENT, STEP-GRANDPARENT, stepchild, step-grandchild, brother-in-law or sister-in-law. Chs. 217 and 334

5. The victim is a child who resides or has resided in the same household as the defendant and is related by blood to a former spouse of the defendant or to a person who resides or who has resided in the same household as the defendant.

B. A peace officer may, with or without a warrant, arrest a person if the officer has probable cause to believe that domestic violence has been committed and the officer has probable cause to believe that the person to be arrested has committed the offense, whether such offense is a felony or a misdemeanor and whether such offense was committed within or without the presence of the peace officer. In cases of domestic violence involving the infliction of physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument, the peace officer shall arrest a person, with or without a warrant, if the officer has probable cause to believe that the offense has been committed and the officer has probable cause to believe that the person to be arrested has committed the offense, whether such offense was committed within or without the presence of the peace officer, unless the officer has reasonable grounds to believe that the circumstances at the time are such that the victim will be protected from further injury. Failure to make an arrest does not give rise to civil liability except pursuant to section 12-820.02. In order to arrest both parties, the peace officer shall have probable cause to believe that both parties independently have committed an act of domestic violence. An act of self-defense that is justified under chapter 4 of this title is not deemed to be an act of domestic violence. The release procedures available under

section 13-3883, subsection A, paragraph 4 and section 13-3903 are not applicable to arrests made pursuant to this subsection.

C. A peace officer may question the persons who are present to determine if a firearm is present on the premises. On learning or observing that a firearm is present on the premises, the peace officer may temporarily seize the firearm if the firearm is in plain view or was found pursuant to a consent to search and if the officer reasonably believes that the firearm would expose the victim or another person in the household to a risk of serious bodily injury or death. A firearm owned or possessed by the victim shall not be seized unless there is probable cause to believe that both parties independently have committed an act of domestic violence.

D. If a firearm is seized pursuant to subsection C of this section, the peace officer shall give the owner or possessor of the firearm a receipt for each seized firearm. The receipt shall indicate the identification or serial number or other identifying characteristic of each seized firearm. Each seized firearm shall be held for at least seventy-two hours by the law enforcement agency that seized the firearm.

E. If a firearm is seized pursuant to subsection C of this section, the victim shall be notified by a peace officer before the firearm is released from temporary custody.

F. If there is reasonable cause to believe that returning a firearm to the owner or possessor may endanger the victim, the person who reported the assault or threat or another person in the household, the prosecutor shall file a notice of intent to retain the firearm in the appropriate superior, justice or municipal court. The prosecutor shall serve notice on the owner or possessor of the firearm by certified mail. The notice shall state that the firearm will be retained for not more than six months following the date of seizure. On receipt of the notice, the owner or possessor may request a hearing for the return of the firearm, to dispute the grounds for seizure or to request an earlier return date. The court shall hold the hearing within ten days after receiving the owner's or possessor's request for a hearing. At the hearing, unless the court determines that the return of the firearm may endanger the victim, the person who reported the assault or threat or another person in the household, the court shall order the return of the firearm to the owner or possessor.

G. A peace officer is not liable for any act or omission in the good faith exercise of the officer's duties under subsections C, D, E and F of this section.

H. Each indictment, information, complaint, summons or warrant that is issued and that involves domestic violence shall state that the offense involved domestic violence and shall be designated by the letters DV. A domestic violence charge shall not be dismissed or a domestic violence conviction shall not be set aside for failure to comply with this subsection.

I. A person arrested pursuant to subsection B of this section may be released from custody in accordance with the Arizona rules of criminal procedure or ANY other applicable statute. Any order for release, with or without an appearance bond, shall include pretrial release conditions necessary to provide for the protection of the alleged victim and other specifically designated persons and may provide for additional conditions

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which the court deems appropriate, including participation in any counseling programs available to the defendant.

J. When a peace officer responds to a call alleging that domestic violence has been or may be committed, the officer shall inform in writing any alleged or potential victim of the procedures and resources available for the protection of such victim including:

1. An order of protection pursuant to section 13-3602, an injunction pursuant to section 25-315 and an injunction against harassment pursuant to section 12-1809.

2. The emergency telephone number for the local police agency.

3. Telephone numbers for emergency services in the local community.

K. A peace officer is not civilly liable for noncompliance with subsection J of this section.

L. An offense included in domestic violence carries the classification prescribed in the section of this title in which the offense is classified. IF THE DEFENDANT COMMITTED A FELONY OFFENSE LISTED IN SUBSECTION A OF THIS SECTION AGAINST A PREGNANT VICTIM AND KNEW THAT THE VICTIM WAS PREGNANT OR IF THE DEFENDANT COMMITTED A FELONY OFFENSE CAUSING PHYSICAL INJURY TO A PREGNANT VICTIM AND KNEW THAT THE VICTIM WAS PREGNANT, THE MAXIMUM SENTENCE OTHERWISE AUTHORIZED SHALL BE INCREASED BY UP TO TWO YEARS. Ch. 217

Chs. 217 and 334 M. If the defendant is found guilty of an offense included in domestic violence and if probation is otherwise available for ~~such~~ THAT offense, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings and place the defendant on probation or intensive probation, as provided in this subsection. The terms and conditions of probation or intensive probation shall include those necessary to provide for the protection of the alleged victim and other specifically designated persons and additional conditions and requirements which the court deems appropriate, including imposition of a fine, incarceration of the defendant in a county jail, payment of restitution, completion of a domestic violence offender treatment program that is provided by a facility approved by the department of health services or a probation department or any other counseling or diversionary programs that do not involve domestic violence and that are available to the defendant. On violation of a term or condition of probation or intensive probation, the court may enter an adjudication of guilt and proceed as otherwise provided for revocation of probation. On fulfillment of the terms and conditions of probation or intensive probation, the court shall discharge the defendant and dismiss the proceedings against the defendant. This subsection does not apply in any case in which the defendant has previously been found guilty under this section, or in which charges under this section have previously been dismissed in accordance with this subsection.

N. If a defendant is diverted pursuant to this section, the court shall provide the following written notice to the defendant:

> You have been diverted from prosecution for an offense included in domestic violence. You are now on notice that:
>
> 1. If you successfully complete the terms and conditions of diversion, the court will discharge you and dismiss the

proceedings against you.

2. If you fail to successfully complete the terms and conditions of diversion, the court may enter an adjudication of guilt and proceed as provided by law.

O. If the defendant is found guilty of a first offense included in domestic violence, the court shall provide the following written notice to the defendant:

You have been convicted of an offense included in domestic violence. You are now on notice that:

1. If you are convicted of a second offense included in domestic violence, you may be placed on supervised probation and may be incarcerated as a condition of probation.

2. ~~If you are convicted of a third or subsequent offense included in domestic violence, you will be sentenced to~~ A THIRD OR SUBSEQUENT CHARGE MAY BE FILED AS A FELONY AND A CONVICTION FOR THAT OFFENSE SHALL RESULT IN a term of incarceration.

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P. The failure or inability of the court to provide the notice required under subsections N and O of this section does not preclude the use of the prior convictions for any purpose otherwise permitted.

EXPLANATION OF BLEND
SECTION 15-203

Laws 2001, Chapters 56, 141, 231 and 241

Laws 2001, Ch. 56, section 1	Effective August 9
Laws 2001, Ch. 141, section 1	Effective August 9
Laws 2001, Ch. 231, section 2	Effective August 9
Laws 2001, Ch. 241, section 1	Effective August 9

Explanation

Since these four enactments are not incompatible the Laws 2001, Ch. 56, Ch. 141, Ch. 231 and Ch. 241 text changes to section 15-203 are blended in the form shown on the following pages.

BLEND OF SECTION 15-203
Laws 2001, Chapters 56, 141, 231 and 241

15-203. Powers and duties

A. The state board of education shall:

1. Exercise general supervision over and regulate the conduct of the public school system.

2. Keep a record of its proceedings.

3. Make rules for its own government.

4. Determine the policy and work undertaken by it.

5. Appoint its employees, on the recommendation of the superintendent of public instruction.

6. Prescribe the duties of its employees if not prescribed by statute.

7. Delegate to the superintendent of public instruction the execution of board policies.

8. Recommend to the legislature changes or additions to the statutes pertaining to schools.

9. Prepare, publish and distribute reports concerning the educational welfare of this state.

10. Prepare a budget for expenditures necessary for proper maintenance of the board and accomplishment of its purposes and present the budget to the legislature.

11. Aid in the enforcement of laws relating to schools.

12. Prescribe a minimum course of study in the common schools, minimum competency requirements for the promotion of pupils from the third grade and minimum course of study and competency requirements for the promotion of pupils from the eighth grade. The state board of education shall prepare a fiscal impact statement of any proposed changes to the minimum course of study or competency requirements and, on completion, shall send a copy to the director of the joint legislative budget committee and the executive director of the school facilities board. The state board of education shall not adopt any changes in the minimum course of study or competency requirements in effect on July 1, 1998 that will have a fiscal impact on school capital costs.

13. Prescribe minimum course of study and competency requirements for the graduation of pupils from high school. The state board of education shall prepare a fiscal impact statement of any proposed changes to the minimum course of study or competency requirements and, on completion, shall send a copy to the director of the joint legislative budget committee and the executive director of the school facilities board. The state board of education shall not adopt any changes in the minimum course of study or competency requirements in effect on July 1, 1998 that will have a fiscal impact on school capital costs.

14. Supervise and control the certification of persons engaged in instructional work directly as any classroom, laboratory or other teacher or indirectly as a supervisory teacher, speech therapist, principal or

superintendent in a school district, including school district preschool programs, or any other educational institution below the community college, college or university level, and prescribe rules for certification, including rules for certification of teachers who have teaching experience and who are trained in other states, which are not unnecessarily restrictive and are substantially similar to the rules prescribed for the certification of teachers trained in this state. Until July 1, 2006, the rules shall require applicants for all certificates for common school instruction to complete a minimum of forty-five classroom hours or three college level credit hours, or the equivalent, of training in research based systematic phonics instruction from a public or private provider. The rules shall not require a teacher to obtain a master's degree or to take any additional graduate courses as a condition of certification or recertification. THE RULES SHALL ALLOW A GENERAL EQUIVALENCY DIPLOMA TO BE SUBSTITUTED FOR A HIGH SCHOOL DIPLOMA IN THE CERTIFICATION OF EMERGENCY SUBSTITUTE TEACHERS.

Ch. 141

15. Adopt a list of approved tests for determining special education assistance to gifted students as defined in section 15-761 and as provided in section 15-764. The adopted tests shall provide separate scores for quantitative reasoning, verbal reasoning and nonverbal reasoning and shall be capable of providing reliable and valid scores at the highest ranges of the score distribution.

16. Adopt rules governing the methods for the administration of all proficiency examinations.

17. Adopt proficiency examinations for its use. The state board of education shall determine the passing score for the proficiency examination.

18. Include within its budget the cost of contracting for the purchase, distribution and scoring of the examinations as provided in paragraphs 16 and 17 of this subsection.

19. Supervise and control the qualifications of professional nonteaching school personnel and prescribe standards relating to qualifications.

20. Impose such disciplinary action, including the issuance of a letter of censure, suspension, suspension with conditions or revocation of a certificate, upon a finding of immoral or unprofessional conduct.

21. Establish an assessment, data gathering and reporting system for pupil performance as prescribed in chapter 7, article 3 of this title.

22. Adopt a rule to promote braille literacy pursuant to section 15-214.

23. Adopt rules prescribing procedures for the investigation by the department of education of every written complaint alleging that a certificated person has engaged in immoral conduct.

24. For purposes of federal law, serve as the state board for vocational and technological education and meet at least four times each year solely to execute the powers and duties of the state board for vocational and technological education.

25. Develop and maintain a handbook for use in the schools of this state that provides guidance for the teaching of moral, civic and ethical education. The handbook shall promote existing curriculum frameworks and

shall encourage school districts to recognize moral, civic and ethical values within instructional and programmatic educational development programs for the general purpose of instilling character and ethical principles in pupils in kindergarten programs and grades one through twelve.

26. Require pupils to recite the following passage from the declaration of independence for pupils in grades four through six at the commencement of the first class of the day in the schools, except that a pupil shall not be required to participate if the pupil or the pupil's parent or guardian objects:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. . . .

27. By July 1, 2000, adopt rules which provide for teacher certification reciprocity. The rules shall provide for a one year reciprocal teaching certificate with minimum requirements including valid teacher certification from a state with substantially similar criminal history or teacher fingerprinting requirements and proof of the submission of an application for a class one or class two fingerprint clearance card pursuant to title 41, chapter 12, article 3.1.

Ch. 56

28. ADOPT RULES THAT WILL BE IN EFFECT UNTIL DECEMBER 31, 2006 AND THAT PROVIDE FOR THE PRESENTATION OF AN HONORARY HIGH SCHOOL DIPLOMA TO A PERSON WHO HAS NEVER OBTAINED A HIGH SCHOOL DIPLOMA AND WHO MEETS EACH OF THE FOLLOWING REQUIREMENTS:

(a) IS AT LEAST SIXTY-FIVE YEARS OF AGE.

(b) CURRENTLY RESIDES IN THIS STATE.

(c) PROVIDES DOCUMENTED EVIDENCE FROM THE ARIZONA DEPARTMENT OF VETERANS' SERVICES THAT THE PERSON ENLISTED IN THE ARMED FORCES OF THE UNITED STATES BEFORE COMPLETING HIGH SCHOOL IN A PUBLIC OR PRIVATE SCHOOL.

(d) WAS HONORABLY DISCHARGED FROM SERVICE WITH THE ARMED FORCES OF THE UNITED STATES.

Ch. 231

29. COOPERATE WITH THE ARIZONA-MEXICO COMMISSION IN THE GOVERNOR'S OFFICE AND WITH RESEARCHERS AT UNIVERSITIES IN THIS STATE TO COLLECT DATA AND CONDUCT PROJECTS IN THE UNITED STATES AND MEXICO ON ISSUES THAT ARE WITHIN THE SCOPE OF THE DUTIES OF THE DEPARTMENT OF EDUCATION AND THAT RELATE TO QUALITY OF LIFE, TRADE AND ECONOMIC DEVELOPMENT IN THIS STATE IN A MANNER THAT WILL HELP THE ARIZONA-MEXICO COMMISSION TO ASSESS AND ENHANCE THE ECONOMIC COMPETITIVENESS OF THIS STATE AND OF THE ARIZONA-MEXICO REGION.

Ch. 241

30. BY DECEMBER 1, 2001, ADOPT RULES TO DEFINE AND PROVIDE GUIDANCE TO SCHOOLS AS TO THE ACTIVITIES THAT WOULD CONSTITUTE IMMORAL OR UNPROFESSIONAL CONDUCT OF CERTIFICATED PERSONS.

B. The state board of education may:

1. Contract.

2. Sue and be sued.

3. Distribute and score the tests prescribed in chapter 7, article 3 of this title.

Ch. 241

4. Provide for an advisory committee ~~and administrative law judges~~ to conduct hearings AND SCREENINGS to determine whether grounds exist to impose disciplinary action against a certificated person, ~~and~~ whether grounds exist to reinstate a revoked or surrendered certificate AND WHETHER GROUNDS EXIST TO APPROVE OR DENY AN INITIAL APPLICATION FOR CERTIFICATION OR A REQUEST FOR RENEWAL OF A CERTIFICATE. The board may delegate its responsibility to conduct hearings AND SCREENINGS to its advisory committee ~~and to administrative law judges~~. Hearings shall be conducted pursuant to title 41, chapter 6, article ~~10~~ 6.

5. Proceed with the disposal of any complaint requesting disciplinary action or with any disciplinary action against a person holding a certificate as prescribed in subsection A, paragraph 14 of this section after the suspension or expiration of the certificate or surrender of the certificate by the holder.

6. Assess costs and reasonable attorney fees against a person who files a frivolous complaint or who files a complaint in bad faith. Costs assessed pursuant to this paragraph shall not exceed the expenses incurred by the state board in the investigation of the complaint.

EXPLANATION OF BLEND
SECTION 15-901

Laws 2001, Chapters 233 and 312

Laws 2001, Ch. 233, section 3 — Effective August 9

Laws 2001, Ch. 312, section 2 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 233 and Ch. 312 text changes to section 15-901 are blended in the form shown on the following pages.

BLEND OF SECTION 15-901
Laws 2001, Chapters 233 and 312

15-901. Definitions

A. In this title, unless the context otherwise requires:

1. "Average daily attendance" or "ADA" means actual average daily attendance through the first one hundred days or two hundred days in session, as applicable.

2. "Average daily membership" means the total enrollment of fractional students and full-time students, minus withdrawals, of each school day through the first one hundred days or two hundred days in session, as applicable, for the current year. Withdrawals include students formally withdrawn from schools and students absent for ten consecutive school days, except for excused absences as identified by the department of education. For computation purposes, the effective date of withdrawal shall be retroactive to the last day of actual attendance of the student.

(a) "Fractional student" means:

(i) For common schools, until fiscal year 2001-2002, a preschool child who is enrolled in a program for preschool children with disabilities of at least three hundred sixty minutes each week or a kindergarten student at least five years of age prior to January 1 of the school year and enrolled in a school kindergarten program that meets at least three hundred forty-six instructional hours during the minimum number of days required in a school year as provided in section 15-341. In fiscal year 2001-2002, the kindergarten program shall meet at least three hundred forty-eight hours. In fiscal year 2002-2003, the kindergarten program shall meet at least three hundred fifty hours. In fiscal year 2003-2004, the kindergarten program shall meet at least three hundred fifty-two hours. In fiscal year 2004-2005, the kindergarten program shall meet at least three hundred fifty-four hours. In fiscal year 2005-2006 and each fiscal year thereafter, the kindergarten program shall meet at least three hundred fifty-six hours. Lunch periods and recess periods may not be included as part of the instructional hours unless the child's individualized education program requires instruction during those periods and the specific reasons for such instruction are fully documented. In computing the average daily membership, preschool children with disabilities and kindergarten students shall be counted as one-half of a full-time student. For common schools, a part-time student is a student enrolled for less than the total time for a full-time student as defined in this section. A part-time common school student shall be counted as one-fourth, one-half or three-fourths of a full-time student if the student is enrolled in an instructional program that is at least one-fourth, one-half or three-fourths of the time a full-time student is enrolled as defined in subdivision (b) of this paragraph.

(ii) For high schools, a part-time student who is enrolled in less than four subjects that count toward graduation as defined by the state board of education in a recognized high school and who is taught in less than twenty instructional hours per week prorated for any week with fewer than

five school days. A part-time high school student shall be counted as one-fourth, one-half or three-fourths of a full-time student if the student is enrolled in an instructional program that is at least one-fourth, one-half or three-fourths of a full-time instructional program as defined in subdivision (c) of this paragraph.

(b) "Full-time student" means:

(i) For common schools, a student who is at least six years of age prior to January 1 of a school year, who has not graduated from the highest grade taught in the school district and who is regularly enrolled in a course of study required by the state board of education. Until fiscal year 2001-2002, first, second and third grade students, ungraded students at least six, but under nine, years of age by September 1 or ungraded group B children with disabilities who are at least five, but under six, years of age by September 1 must be enrolled in an instructional program that meets for a total of at least six hundred ninety-two hours during the minimum number of days required in a school year as provided in section 15-341. In fiscal year 2001-2002, the program shall meet at least six hundred ninety-six hours. In fiscal year 2002-2003, the program shall meet at least seven hundred hours. In fiscal year 2003-2004, the program shall meet at least seven hundred four hours. In fiscal year 2004-2005, the program shall meet at least seven hundred eight hours. In fiscal year 2005-2006 and in each fiscal year thereafter, the program shall meet at least seven hundred twelve hours. Until fiscal year 2001-2002, fourth, fifth and sixth grade students or ungraded students at least nine, but under twelve, years of age by September 1 must be enrolled in an instructional program that meets for a total of at least eight hundred sixty-five hours during the minimum number of school days required in a school year as provided in section 15-341. In fiscal year 2001-2002, the program shall meet at least eight hundred seventy hours. In fiscal year 2002-2003, the program shall meet at least eight hundred seventy-five hours. In fiscal year 2003-2004, the program shall meet at least eight hundred eighty hours. In fiscal year 2004-2005, the program shall meet at least eight hundred eighty-five hours. In fiscal year 2005-2006 and each fiscal year thereafter, the program shall meet at least eight hundred ninety hours. Until fiscal year 2001-2002, seventh and eighth grade students or ungraded students at least twelve, but under fourteen, years of age by September 1 must be enrolled in an instructional program that meets for a total of at least one thousand thirty-eight hours during the minimum number of days required in a school year as provided in section 15-341. In fiscal year 2001-2002, the program shall meet at least one thousand forty-four hours. In fiscal year 2002-2003, the program shall meet at least one thousand fifty hours. In fiscal year 2003-2004, the program shall meet at least one thousand fifty-six hours. In fiscal year 2004-2005, the program shall meet at least one thousand sixty-two hours. In fiscal year 2005-2006 and each fiscal year thereafter, the program shall meet at least one thousand sixty-eight hours. Lunch periods and recess periods may not be included as part of the instructional hours unless the student is a child with a disability and the child's individualized education program requires instruction during those periods and the specific reasons for such instruction are fully documented.

(ii) For high schools, a student not graduated from the highest grade taught in the school district, or an ungraded student at least fourteen years of age by September 1, and enrolled in at least a full-time instructional program of subjects that count toward graduation as defined by the state board of education in a recognized high school. A full-time student shall not be counted more than once for computation of average daily membership.

(iii) For homebound or hospitalized, a student receiving at least four hours of instruction per week.

(c) "Full-time instructional program" means at least four subjects, each of which, if taught each school day for the minimum number of days required in a school year, through fiscal year 2000-2001, would meet a minimum of one hundred twenty hours a year, or the equivalent, or one or more subjects taught in amounts of time totalling at least twenty hours per week prorated for any week with fewer than five school days. For fiscal years after 2000-2001:

(i) In fiscal years 2001-2002 and 2002-2003, each subject shall meet at least one hundred twenty-two hours. In fiscal year 2003-2004 and each fiscal year thereafter, each subject shall meet at least one hundred twenty-three hours.

(ii) For grades nine, ten and eleven, the total program shall meet at least eight hundred eighty hours in fiscal year 2001-2002. In fiscal year 2002-2003, the total program shall meet at least eight hundred eighty-five hours. In fiscal year 2003-2004, the total program shall meet at least eight hundred ninety hours. In fiscal year 2004-2005, the total program shall meet at least eight hundred ninety-five hours. In fiscal year 2005-2006 and each fiscal year thereafter, the total program shall meet at least nine hundred hours.

3. "Budget year" means the fiscal year for which the school district is budgeting and which immediately follows the current year.

4. "Common school district" means a political subdivision of this state offering instruction to students in programs for preschool children with disabilities and kindergarten programs and grades one through eight.

5. "Current year" means the fiscal year in which a school district is operating.

6. "Daily attendance" means:

(a) For common schools, days in which a pupil:

(i) Of a kindergarten program or ungraded, but not group B children with disabilities, and at least five, but under six, years of age by September 1 attends at least three-quarters of the instructional time scheduled for the day. If the total instruction time scheduled for the year is at least three hundred forty-six hours but is less than six hundred ninety-two hours such attendance shall be counted as one-half day of attendance. If the instructional time scheduled for the year is at least six hundred ninety-two hours, "daily attendance" means days in which a pupil attends at least one-half of the instructional time scheduled for the day. Such attendance shall be counted as one-half day of attendance.

(ii) Of the first, second or third grades, ungraded and at least six, but under nine, years of age by September 1 or ungraded group B children with disabilities and at least five, but under six, years of age by September 1

attends more than three-quarters of the instructional time scheduled for the day.

(iii) Of the fourth, fifth or sixth grades or ungraded and at least nine, but under twelve, years of age by September 1 attends more than three-quarters of the instructional time scheduled for the day, except as provided in section 15-797.

(iv) Of the seventh or eighth grades or ungraded and at least twelve, but under fourteen, years of age by September 1 attends more than three-quarters of the instructional time scheduled for the day, except as provided in section 15-797.

(b) For common schools, the attendance of a pupil at three-quarters or less of the instructional time scheduled for the day shall be counted as follows, except as provided in section 15-797 and except that attendance for a fractional student shall not exceed the pupil's fractional membership:

(i) If attendance for all pupils in the school is based on quarter days, the attendance of a pupil shall be counted as one-fourth of a day's attendance for each one-fourth of full-time instructional time attended.

(ii) If attendance for all pupils in the school is based on half days, the attendance of at least three-quarters of the instructional time scheduled for the day shall be counted as a full day's attendance and attendance at a minimum of one-half but less than three-quarters of the instructional time scheduled for the day equals one-half day of attendance.

(c) For common schools, the attendance of a preschool child with disabilities shall be counted as one-fourth day's attendance for each thirty-six minutes of attendance not including lunch periods and recess periods, except as provided in paragraph 2, subdivision (a), item (i) of this subsection for children with disabilities up to a maximum of three hundred sixty minutes each week.

(d) For high schools or ungraded schools in which the pupil is at least fourteen years of age by September 1, the attendance of a pupil shall not be counted as a full day unless the pupil is actually and physically in attendance and enrolled in and carrying four subjects, each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty hours a year, or the equivalent, that count toward graduation in a recognized high school except as provided in section 15-797 and subdivision (e) of this paragraph. Attendance of a pupil carrying less than the load prescribed shall be prorated.

(e) For high schools or ungraded schools in which the pupil is at least fourteen years of age by September 1, the attendance of a pupil may be counted as one-fourth of a day's attendance for each sixty minutes of instructional time in a subject that counts toward graduation, except that attendance for a pupil shall not exceed the pupil's full or fractional membership.

(f) For homebound or hospitalized, a full day of attendance may be counted for each day during a week in which the student receives at least four hours of instruction.

(g) For school districts which maintain school for an approved year-round school year operation, attendance shall be based on a computation,

as prescribed by the superintendent of public instruction, of the one hundred eighty days' equivalency or two hundred days' equivalency, as applicable, of instructional time as approved by the superintendent of public instruction during which each pupil is enrolled.

7. "Daily route mileage" means the sum of:

(a) The total number of miles driven daily by all buses of a school district while transporting eligible students from their residence to the school of attendance and from the school of attendance to their residence on scheduled routes approved by the superintendent of public instruction.

(b) The total number of miles driven daily on routes approved by the superintendent of public instruction for which a private party, a political subdivision or a common or a contract carrier is reimbursed for bringing an eligible student from the place of his residence to a school transportation pickup point or to the school of attendance and from the school transportation scheduled return point or from the school of attendance to his residence.

Daily route mileage includes the total number of miles necessary to drive to transport eligible students from and to their residence as provided in this paragraph.

8. "District support level" means the base support level plus the transportation support level.

9. "Eligible students" means:

(a) Students who are transported by or for a school district and who qualify as full-time students or fractional students, except students for whom transportation is paid by another school district or a county school superintendent, and:

(i) For common school students, whose place of actual residence within the school district is more than one mile from the school facility of attendance or students who are admitted pursuant to section 15-816.01 and who meet the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or reduced price lunches and whose actual place of residence outside the school district boundaries is more than one mile from the school facility of attendance.

(ii) For high school students, whose place of actual residence within the school district is more than one and one-half miles from the school facility of attendance or students who are admitted pursuant to section 15-816.01 and who meet the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or reduced price lunches and whose actual place of residence outside the school district boundaries is more than one and one-half miles from the school facility of attendance.

(b) Kindergarten students, for purposes of computing the number of eligible students under subdivision (a), item (i) of this paragraph, shall be counted as full-time students, notwithstanding any other provision of law.

(c) Children with disabilities, as defined by section 15-761, who are transported by or for the school district or who are admitted pursuant to chapter 8, article 1.1 of this title and who qualify as full-time students or fractional students regardless of location or residence within the school

district or children with disabilities whose transportation is required by the pupil's individualized education program.

(d) Students whose residence is outside the school district and who are transported within the school district on the same basis as students who reside in the school district.

10. "Enrolled" or "enrollment" means when a pupil is currently registered in the school district.

11. "GDP price deflator" means the average of the four implicit price deflators for the gross domestic product reported by the United States department of commerce for the four quarters of the calendar year.

12. "High school district" means a political subdivision of this state offering instruction to students for grades nine through twelve or that portion of the budget of a common school district which is allocated to teaching high school subjects with permission of the state board of education.

13. "Revenue control limit" means the base revenue control limit plus the transportation revenue control limit.

14. "Student count" means average daily membership as prescribed in this subsection for the fiscal year prior to the current year, except that for the purpose of budget preparation student count means average daily membership as prescribed in this subsection for the current year.

15. "Submit electronically" means submitted in a format and in a manner prescribed by the department of education.

16. "Total bus mileage" means the total number of miles driven by all buses of a school district during the school year.

17. "Total students transported" means all eligible students transported from their place of residence to a school transportation pickup point or to the school of attendance and from the school of attendance or from the school transportation scheduled return point to their place of residence.

18. "Unified school district" means a political subdivision of the state offering instruction to students in programs for preschool children with disabilities and kindergarten programs and grades one through twelve.

B. In this title, unless the context otherwise requires:

1. "Base" means the revenue level per student count specified by the legislature.

2. "Base level" means:

(a) For fiscal year 1999-2000, two thousand five hundred fifty-nine dollars ninety-three cents.

(b) For fiscal year 2000-2001, two thousand five hundred eighty-five dollars sixty cents.

(c) For fiscal year 2001-2002, ~~and each subsequent fiscal year, the base level for the prior year adjusted by any growth rate prescribed by law, subject to appropriation.~~ TWO THOUSAND SIX HUNDRED EIGHTY-SEVEN DOLLARS THIRTY-TWO CENTS.

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(d) FOR FISCAL YEAR 2002-2003, TWO THOUSAND SEVEN HUNDRED FIFTY-THREE DOLLARS NINETY CENTS.

3. "Base revenue control limit" means the base revenue control limit computed as provided in section 15-944.

4. "Base support level" means the base support level as provided in section 15-943.

5. "Certified teacher" means a person who is certified as a teacher pursuant to the rules adopted by the state board of education, who renders direct and personal services to school children in the form of instruction related to the school district's educational course of study and who is paid from the maintenance and operation section of the budget.

6. "ED, MIMR, SLD, SLI and OHI" means programs for children with emotional disabilities, mild mental retardation, a specific learning disability, a speech/language impairment and other health impairments.

7. "ED-P" means programs for children with emotional disabilities who are enrolled in private special education programs as prescribed in section 15-765, subsection D, paragraph 1 or in an intensive school district program as provided in section 15-765, subsection D, paragraph 2.

8. "Full-time equivalent certified teacher" or "FTE certified teacher" means for a certified teacher the following:

(a) If employed full time as defined in section 15-501, 1.00.

(b) If employed less than full time, multiply 1.00 by the percentage of a full school day, or its equivalent, or a full class load, or its equivalent, for which the teacher is employed as determined by the governing board.

9. "Group A" means educational programs for career exploration, a specific learning disability, an emotional disability, mild mental retardation, remedial education, a speech/language impairment, homebound, bilingual, preschool moderate delay, preschool speech/language delay, other health impairments and gifted pupils.

10. "Group B" means educational improvements for pupils in kindergarten programs and grades one through three, educational programs for autism, a hearing impairment, moderate mental retardation, multiple disabilities, multiple disabilities with severe sensory impairment, orthopedic impairments, preschool severe delay, severe mental retardation and emotional disabilities for school age pupils enrolled in private special education programs or in school district programs for children with severe disabilities or visual impairment and limited English proficient pupils enrolled in a program to promote English language proficiency pursuant to section 15-754.

11. "HI" means programs for pupils with hearing impairment.

12. "Homebound" or "hospitalized" means a pupil who is capable of profiting from academic instruction but is unable to attend school due to illness, disease, accident or other health conditions, who has been examined by a competent medical doctor and who is certified by that doctor as being unable to attend regular classes for a period of not less than three school months or a pupil who is capable of profiting from academic instruction but is unable to attend school regularly due to chronic or acute health problems, who has been examined by a competent medical doctor and who is certified by that doctor as being unable to attend regular classes for intermittent periods of time totaling three school months during a school year. The medical certification shall state the general medical condition, such as

illness, disease or chronic health condition, that is the reason that the pupil is unable to attend school. HOMEBOUND OR HOSPITALIZED INCLUDES A STUDENT WHO IS UNABLE TO ATTEND SCHOOL FOR A PERIOD OF LESS THAN THREE MONTHS DUE TO A PREGNANCY IF A COMPETENT MEDICAL DOCTOR, AFTER AN EXAMINATION, CERTIFIES THAT THE STUDENT IS UNABLE TO ATTEND REGULAR CLASSES DUE TO RISK TO THE PREGNANCY OR TO THE STUDENT'S HEALTH.

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13. "K-3" means kindergarten programs and grades one through three.

14. "LEP" means limited English proficient pupils who are enrolled in a program to promote English language proficiency pursuant to section 15-754.

15. "MD-R, A-R and SMR-R" means resource programs for pupils with multiple disabilities, autism and severe mental retardation.

16. "MD-SC, A-SC and SMR-SC" means self-contained programs for pupils with multiple disabilities, autism and severe mental retardation.

17. "MDSSI" means a program for pupils with multiple disabilities with severe sensory impairment.

18. "MOMR" means programs for pupils with moderate mental retardation.

19. "OI-R" means a resource program for pupils with orthopedic impairments.

20. "OI-SC" means a self-contained program for pupils with orthopedic impairments.

21. "PSD" means preschool programs for children with disabilities as provided in section 15-771.

22. "P-SD" means programs for children who meet the definition of preschool severe delay as provided in section 15-771.

23. "Qualifying tax rate" means the qualifying tax rate specified in section 15-971 applied to the assessed valuation used for primary property taxes.

24. "Small isolated school district" means a school district which meets all of the following:

(a) Has a student count of fewer than six hundred in kindergarten programs and grades one through eight or grades nine through twelve.

(b) Contains no school which is fewer than thirty miles by the most reasonable route from another school, or, if road conditions and terrain make the driving slow or hazardous, fifteen miles from another school which teaches one or more of the same grades and is operated by another school district in this state.

(c) Is designated as a small isolated school district by the superintendent of public instruction.

25. "Small school district" means a school district which meets all of the following:

(a) Has a student count of fewer than six hundred in kindergarten programs and grades one through eight or grades nine through twelve.

(b) Contains at least one school which is fewer than thirty miles by the most reasonable route from another school which teaches one or more of the same grades and is operated by another school district in this state.

(c) Is designated as a small school district by the superintendent of public instruction.

26. "Transportation revenue control limit" means the transportation revenue control limit computed as prescribed in section 15-946.

27. "Transportation support level" means the support level for pupil transportation operating expenses as provided in section 15-945.

28. "VI" means programs for pupils with visual impairments.

29. "Voc. Ed." means vocational and technological education programs, as defined in section 15-781, except that for the purpose of computing the district support level as provided in this title vocational and technological education programs only include approved vocational and technological programs for students in grades nine through twelve.

EXPLANATION OF BLEND
SECTION 15-1451

Laws 2001, Chapters 136, 138, 280 and 380

Laws 2001, Ch. 136, section 1	Effective August 9
Laws 2001, Ch. 138, section 1	Effective August 9
Laws 2001, Ch. 280, section 1	Effective August 9
Laws 2001, Ch. 380, section 1	Effective August 9

Explanation

Since these four enactments are not incompatible, the Laws 2001, Ch. 136, Ch. 138, Ch. 280 and Ch. 380 text changes to section 15-1451 are blended in the form shown on the following pages.

BLEND OF SECTION 15-1451
Laws 2001, Chapters 136, 138, 280 and 380

15-1451. Optional retirement plans

Chs. 136, 280 and 380

A. ~~Notwithstanding section 38-729, subsection I, and~~ Pursuant to section 15-1444, subsection B, paragraph 5, a community college district board may establish an optional retirement program under which contracts providing retirement and death benefits may be purchased for employees of the institutions under its jurisdiction as designated by the community college district board.

B. An optional retirement program established pursuant to this section shall:

1. Be designed to be a qualified governmental plan under section 401(a) of the internal revenue code.

2. Comply with all requirements of the internal revenue code applicable to governmental plans.

3. Be a qualified plan under section 401(a) of the internal revenue code.

4. Apply for and maintain a current letter of determination issued by the United States internal revenue service.

5. Be a qualified pick-up plan as defined by section 414(h)(2) of the internal revenue code as confirmed by a private letter ruling issued by the United States internal revenue service.

6. Provide benefits through annuity contracts that are fixed or variable in nature or that are a combination of fixed and variable.

C. Eligible employees may elect to participate in an optional retirement plan established by the community college district board. The eligible employee shall make the election in writing and file the election with the Arizona state retirement system and the disbursing officer of the employing institution. The eligible employee shall make the election EITHER:

1. Within thirty days of the employee's effective date of employment. ~~or,~~

2. If the employee is a member of the Arizona state retirement system on the date the optional retirement program becomes effective, within ninety days of the effective date of the optional retirement program.

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3. BEGINNING ON OCTOBER 1, 2001 THROUGH DECEMBER 31, 2001.

D. If an employee who is a member of the Arizona state retirement system elects to participate in an optional retirement program ~~within thirty days of the employee's effective date of employment or within ninety days of the effective date of the optional retirement program~~ PURSUANT TO SUBSECTION C OF THIS SECTION, the Arizona state retirement system shall transfer the employee's contributions to the Arizona state retirement system and interest as determined by the board of the Arizona state retirement system to the optional retirement program within the later of ninety days after the election or ninety days after receipt by the optional retirement program of a favorable letter of determination issued by the United States internal revenue service. If an eligible employee fails to make an election as

Ch. 138 provided in ~~this~~ subsection C OF THIS SECTION, the employee is deemed to have elected to participate in the Arizona state retirement system. The election to participate in an optional retirement program is irrevocable and constitutes a waiver of all benefits provided by the Arizona state retirement system. All eligible employees who elect to participate in an optional retirement program shall remain participants in the optional retirement program during the continuance of employment with the community college district.

~~D.~~ E. The community college district board shall make contributions from public monies appropriated or any other monies available for this purpose on behalf of each participant in the optional retirement program in an amount THAT IS AT LEAST equal to the employer contribution prescribed in Ch. 138 title 38, chapter 5, article 2 BUT THAT IS NOT MORE THAN THE AMOUNT PRESCRIBED IN SECTION 15-1628, SUBSECTION C.

~~E.~~ F. Subject to subsection ~~G~~ H of this section, each community college district board that establishes an optional retirement program shall establish program provisions including:

1. Categories of employees that are eligible to elect to participate in the optional retirement program.

2. The employee contribution rate. This rate may be greater than the employee contribution rate prescribed in title 38, chapter 5, article 2.

3. A vesting period for employer contributions, if any. All employee contributions that are picked up by the employer are fully vested at all times.

4. Restrictions on benefits, except that the optional retirement program shall not allow a participant to withdraw employer contributions except as retirement income payable for life or to provide for loans on retirement income.

~~F.~~ G. A community college district board may elect to provide health or long-term disability coverage to optional retirement program participants under separate benefit plans. The community college district board may allocate a portion of its employer contribution that would otherwise be made Ch. 138 to the optional retirement program under subsection ~~D~~ E of this section to the separate benefit plans to provide health or long-term disability coverage.

~~G.~~ H. Community college district boards that establish an optional retirement program under this section may enter into intergovernmental agreements appointing a single administrator or designating a single community college district board to administer the optional retirement program. A community college district board may satisfy the requirements of this section by entering into an intergovernmental agreement with another community college district board to participate in that community college district's optional retirement program. The administration shall include, without limitation, the design and implementation of the plan document establishing the optional retirement program, compliance with the qualification requirements prescribed in subsection B of this section and such other duties that are not inconsistent with this section as may be delegated to the administrator pursuant to the intergovernmental agreements entered into among the community college district boards.

~~H.~~ I. Although designated as employee contributions, all employee contributions made to an optional retirement program shall be picked up and paid by the community college district in lieu of contributions by the employee. The contributions picked up by a community college district may be made through a reduction in the employees' salary or an offset against future salary increases, or a combination of both. The employees participating in the optional retirement program do not have the option of choosing to receive the contributed amounts directly instead of the community college district paying the amounts to the optional retirement program. It is intended that all employee contributions that are picked up by the community college district as provided in this subsection shall be treated as employer contributions under section 414(h) of the internal revenue code and shall be excluded from the employees' gross income for federal and state income tax purposes and are includable in the gross income of the employees or their beneficiaries only in the taxable year in which they are distributed.

~~I.~~ J. A community college district board shall not be liable to any employee, retiree or other person for any reason relating to the community college district board's provision of or failure to provide for an optional retirement program or health or long-term disability coverage.

EXPLANATION OF BLEND
SECTION 15-2002

Laws 2001, Chapters 11 and 23

Laws 2001, Ch. 11, section 3 — Effective March 15

Laws 2001, Ch. 23, section 6 — Effective August 9
(Retroactive to July 1, 2001)

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 11 and Ch. 23 text changes to section 15-2002 are blended in the form shown on the following pages.

Section 15-2002 was amended an additional time by Laws 2001, Ch. 297 that will require separate publication in addition to this blend.

BLEND OF SECTION 15-2002
Laws 2001, Chapters 11 and 23

15-2002. Powers and duties; executive director; staffing; report

A. The school facilities board shall:

1. Make assessments of school facilities and equipment deficiencies pursuant to section 15-2021 and approve the distribution of grants as appropriate.

Ch. 11 2. Develop a ~~data base~~ DATABASE for administering the building renewal formula prescribed in section 15-2031 and administer the distribution of monies to school districts for building renewal.

3. Inspect school buildings at least once every five years to ensure compliance with the building adequacy standards prescribed in section 15-2011 with respect to construction of new buildings and maintenance of existing buildings.

4. Review and approve student population projections submitted by school districts to determine to what extent school districts are entitled to monies to construct new facilities pursuant to section 15-2041. The board shall make a final determination within six months of the receipt of an application by a school district for monies from the new school facilities fund.

5. Certify that plans for new school facilities meet the building adequacy standards prescribed in section 15-2011.

6. Develop prototypical elementary and high school designs. The board shall review the design differences between the schools with the highest academic productivity scores and the schools with the lowest academic productivity scores. The board shall also review the results of a valid and reliable survey of parent quality rating in the highest performing schools and the lowest performing schools in this state. The survey of parent quality rating shall be administered by the department of education. The board shall consider the design elements of the schools with the highest academic productivity scores and parent quality ratings in the development of elementary and high school designs. The board shall develop separate school designs for elementary, middle and high schools with varying pupil capacities.

7. Develop application forms, reporting forms and procedures to carry out the requirements of this article.

8. Review and approve or reject requests submitted by school districts to take actions pursuant to section 15-341, subsection F.

9. Submit an annual report by December 15 to the speaker of the house of representatives, the president of the senate, the superintendent of public instruction, the director of the Arizona state library, archives and public records and the governor that includes the following information:

(a) A detailed description of the amount of monies distributed by the school facilities board in the previous fiscal year.

(b) A list of each capital project that received monies from the school facilities board during the previous fiscal year, a brief description of each project that was funded and a summary of the board's reasons for the distribution of monies for the project.

(c) A summary of the findings and conclusions of the building maintenance inspections conducted pursuant to this article during the previous fiscal year.

(d) A summary of the findings of common design elements and characteristics of the highest performing schools and the lowest performing schools based on academic productivity including the results of the parent quality rating survey.

For the purposes of this paragraph, "academic productivity" means academic year advancement per calendar year as measured with student-level data using the statewide nationally standardized norm-referenced achievement test.

10. By December 1 of each even-numbered year, report to the joint committee on capital review the estimated amounts necessary to fulfill the requirements of sections 15-2021, 15-2031 and 15-2041 for the following two fiscal years. By December 1 of each odd-numbered year, the board shall provide to the joint committee on capital review an update of the estimated amounts necessary to fulfill the requirements of sections 15-2021, 15-2031 and 15-2041 for the following fiscal year. No later than January 1 of each year, the board shall instruct the state treasurer as to the amounts under the transaction privilege tax to be credited in equal quarterly installments for the following state fiscal year. The board shall provide copies of both reports to the president of the senate, the speaker of the house of representatives and the governor.

11. Adopt minimum school facility adequacy guidelines to provide the minimum quality and quantity of school buildings and the facilities and equipment necessary and appropriate to enable pupils to achieve the educational goals of the Arizona state schools for the deaf and the blind. The school facilities board shall establish minimum school facility adequacy guidelines applicable to the Arizona state schools for the deaf and the blind by December 31, 2000.

B. The school facilities board may contract for private services in compliance with the procurement practices prescribed in title 41, chapter 23.

C. The governor shall appoint an executive director of the school facilities board pursuant to section 38-211. The executive director is eligible to receive compensation as determined pursuant to section 38-611 and may hire and fire necessary staff as approved by the legislature in the budget. The executive director shall have demonstrated competency in school finance, facilities design or facilities management, either in private business or government service. The executive director serves at the pleasure of the governor. The staff of the school facilities board is exempt from title 41, chapter 4, articles 5 and 6. The executive director:

1. Shall analyze applications for monies submitted to the board by school districts.

2. Shall assist the board in developing forms and procedures for the distribution and review of applications and the distribution of monies to school districts.

3. May review or audit, or both, the expenditure of monies by a school district for deficiencies corrections, building renewal and new school facilities.

4. Shall assist the board in the preparation of the board's annual report.

5. Shall research and provide reports on issues of general interest to the board.

6. May aid school districts in the development of reasonable and cost-effective school designs in order to avoid statewide duplicated efforts and unwarranted expenditures in the area of school design.

7. May assist school districts in facilitating the development of multijurisdictional facilities.

8. Shall assist the board in any other appropriate matter or method as directed by the members of the board.

9. Shall establish procedures to ensure compliance with the notice and hearing requirements prescribed in section 15-905. THE NOTICE AND HEARING PROCEDURES ADOPTED BY THE BOARD SHALL INCLUDE THE REQUIREMENT, WITH RESPECT TO THE BOARD'S CONSIDERATION OF ANY APPLICATION FILED AFTER JULY 1, 2001 FOR MONIES TO FUND THE CONSTRUCTION OF NEW SCHOOL FACILITIES PROPOSED TO BE LOCATED IN TERRITORY IN THE VICINITY OF A MILITARY AIRPORT AS DEFINED IN SECTION 28-8461, THAT THE MILITARY AIRPORT RECEIVE NOTIFICATION OF THE APPLICATION BY FIRST CLASS MAIL AT LEAST THIRTY DAYS BEFORE ANY HEARING CONCERNING THE APPLICATION. Ch. 23

10. May expedite any request for funds in which the local match was not obtained for a project that received preliminary approval by the state board for school capital facilities.

11. Shall expedite any request for funds in which the school district governing board submits an application that shows an immediate need for a new school facility.

12. Shall make a determination as to administrative completion within one month after the receipt of an application by a school district for monies from the new school facilities fund.

13. Shall provide technical support to school districts as requested by school districts in connection with the construction of new school facilities and the maintenance of existing school facilities.

D. When appropriate, the school facilities board shall review and use the statewide school facilities inventory and needs assessment conducted by the joint committee on capital review and issued in July, 1995.

E. The school facilities board shall contract with one or more private building inspectors to complete an initial assessment of school facilities and equipment provided in section 15-2021 and shall inspect each school building in this state at least once every five years to ensure compliance with section 15-2011. A copy of the inspection report, together with any recommendations for building maintenance, shall be provided to the school facilities board and the governing board of the school district.

F. The school facilities board may consider appropriate combinations of facilities or uses in making assessments of and curing deficiencies pursuant to subsection A, paragraph 1 of this section and in certifying plans

for new school facilities pursuant to subsection A, paragraph 5 of this section.

G. The board shall not award any monies to fund new facilities that are financed by class A bonds that are issued by the school district.

H. The board shall not distribute monies to a school district for replacement or repair of facilities if the costs associated with the replacement or repair are covered by insurance or a performance or payment bond.

Ch. 11

I. THE BOARD MAY CONTRACT FOR CONSTRUCTION SERVICES AND MATERIALS THAT ARE NECESSARY TO CORRECT EXISTING DEFICIENCIES IN SCHOOL DISTRICT FACILITIES AS DETERMINED PURSUANT TO SECTION 15-2021. THE BOARD MAY PROCURE THE CONSTRUCTION SERVICES NECESSARY PURSUANT TO THIS SUBSECTION BY ANY METHOD INCLUDING CONSTRUCTION-MANAGER-AT-RISK, DESIGN-BUILD, DESIGN-BID-BUILD OR JOB-ORDER-CONTRACTING AS PROVIDED BY TITLE 41, CHAPTER 23. THE CONSTRUCTION PLANNING AND SERVICES PERFORMED PURSUANT TO THIS SUBSECTION ARE EXEMPT FROM THE PROVISIONS OF SECTION 41-791.01.

J. THE SCHOOL FACILITIES BOARD MAY ENTER INTO AGREEMENTS WITH SCHOOL DISTRICTS TO ALLOW SCHOOL FACILITIES BOARD STAFF AND CONTRACTORS ACCESS TO SCHOOL PROPERTY FOR THE PURPOSES OF PERFORMING THE CONSTRUCTION SERVICES NECESSARY PURSUANT TO SUBSECTION I OF THIS SECTION.

EXPLANATION OF BLEND
SECTION 15-2041

Laws 2001, Chapters 23 and 117

Laws 2001, Ch. 23, section 7 — Effective August 9 (Retroactive to July 1, 2001)

Laws 2001, Ch. 117, section 9 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 23 and Ch. 117 text changes to section 15-2041 are blended in the form shown on the following pages.

BLEND OF SECTION 15-2041
Laws 2001, Chapters 23 and 117

15-2041. New school facilities fund; capital plan

A. A new school facilities fund is established consisting of monies appropriated by the legislature and monies credited to the fund pursuant to section 37-221 or 42-5030.01. The school facilities board shall administer the fund and distribute monies, as a continuing appropriation, to school districts for the purpose of constructing new school facilities. On June 30 of each fiscal year, ~~the state treasurer shall credit~~ any unobligated ~~in~~ contract monies in the new school facilities fund SHALL BE TRANSFERRED to the capital reserve fund established by section 15-2003. Ch. 117

B. The school facilities board shall prescribe a uniform format for use by the school district governing board in developing and annually updating a capital plan that consists of each of the following:

1. Enrollment projections for the next five years for elementary schools and eight years for middle and high schools, including a description of the methods used to make the projections.

2. A description of new schools or additions to existing schools needed to meet the building adequacy standards prescribed in section 15-2011. The description shall include:

(a) The grade levels and the total number of pupils that the school or addition is intended to serve.

(b) The year in which it is necessary for the school or addition to begin operations.

(c) A timeline that shows the planning and construction process for the school or addition.

3. Long-term projections of the need for land for new schools.

4. Any other necessary information required by the school facilities board to evaluate a school district's capital plan.

C. If the capital plan indicates a need for a new school or an addition to an existing school within the next four years or a need for land within the next ten years, the school district shall submit its plan to the school facilities board and shall request monies from the new school facilities fund for the new construction or land. Monies provided for land shall be in addition to any monies provided pursuant to subsection D of this section.

D. The school facilities board shall distribute monies from the new school facilities fund as follows:

1. The school facilities board shall review and evaluate the enrollment projections and either approve the projections as submitted or revise the projections. In determining new construction requirements, the school facilities board shall determine the net new growth of pupils that will require additional square footage that exceeds the building adequacy standards prescribed in section 15-2011.

2. If the approved projections indicate that additional space will not be needed within the next two years for elementary schools or three years for

middle or high schools in order to meet the building adequacy standards prescribed in section 15-2011, the request shall be held for consideration by the school facilities board for possible future funding and the school district shall annually submit an updated plan until the additional space is needed.

3. If the approved projections indicate that additional space will be needed within the next two years for elementary schools or three years for middle or high schools in order to meet the building adequacy standards prescribed in section 15-2011, the school facilities board shall provide an amount as follows:

(a) Determine the number of pupils requiring additional square footage to meet building adequacy standards. This amount for elementary schools shall not be less than the number of new pupils for whom space will be needed in the next year and shall not exceed the number of new pupils for whom space will be needed in the next five years. This amount for middle and high schools shall not be less than the number of new pupils for whom space will be needed in the next four years and shall not exceed the number of new pupils for whom space will be needed in the next eight years.

(b) Multiply the number of pupils determined in subdivision (a) of this paragraph by the square footage per pupil. The square footage per pupil is ninety square feet per pupil for preschool children with disabilities, kindergarten programs and grades one through six, one hundred square feet for grades seven and eight, one hundred thirty-four square feet for a school district that provides instruction in grades nine through twelve for fewer than one thousand eight hundred pupils and one hundred twenty-five square feet for a school district that provides instruction in grades nine through twelve for at least one thousand eight hundred pupils. The total number of pupils in grades nine through twelve in the district shall determine the square footage factor to use for net new pupils. The school facilities board may modify the square footage requirements prescribed in this subdivision for particular schools based on any of the following factors:

(i) The number of pupils served or projected to be served by the school district.

(ii) Geographic factors.

(iii) Grade configurations other than those prescribed in this subdivision.

(iv) Compliance with minimum school facility adequacy requirements established pursuant to section 15-2011.

(c) Multiply the product obtained in subdivision (b) of this paragraph by the cost per square foot. The cost per square foot is ninety dollars for preschool children with disabilities, kindergarten programs and grades one through six, ninety-five dollars for grades seven and eight and one hundred ten dollars for grades nine through twelve. The cost per square foot shall be adjusted annually for construction market considerations based on an index identified or developed by the joint legislative budget committee as necessary but not less than once each year. The school facilities board shall multiply the cost per square foot by 1.05 for any school district located in a rural area. The school facilities board may modify the base cost per square foot prescribed in this subdivision for particular schools

based on geographic conditions or site conditions. For purposes of this subdivision, "rural area" means an area outside a thirty-five mile radius of a boundary of a municipality with a population of more than fifty thousand persons according to the most recent United States decennial census.

(d) Once the school district governing board obtains approval from the school facilities board for new facility construction funds, additional portable or modular square footage created for the express purpose of providing temporary space for pupils until the completion of the new facility shall not be included by the school facilities board for the purpose of new construction funding calculations. On completion of the new facility construction project, if the portable or modular facilities continue in use, then the portable or modular facilities shall be included as prescribed by this chapter, unless the school facilities board approves their continued use for the purpose of providing temporary space for pupils until the completion of the next new facility that has been approved for funding from the new school facilities fund.

E. Monies for architectural and engineering fees shall be distributed on the completion of the analysis by the school facilities board of the school district's request. After receiving monies pursuant to this subsection, the school district shall submit a design development plan for the school or addition to the school facilities board before any monies for construction are distributed. If the school district's request meets the building adequacy standards, the school facilities board may review and comment on the district's plan with respect to the efficiency and effectiveness of the plan in meeting state square footage and facility standards before distributing the remainder of the monies. The school facilities board may decline to fund the project if the square footage is no longer required due to revised enrollment projections.

F. The school facilities board shall distribute the monies needed for land for new schools so that land may be purchased at a price that is less than or equal to fair market value and in advance of the construction of the new school. If necessary, the school facilities board may distribute monies for land to be leased for new schools if the duration of the lease exceeds the life expectancy of the school facility by at least fifty per cent. The proceeds derived through the sale of any land purchased or partially purchased with monies provided by the school facilities board shall be returned to the state fund from which it was appropriated and to any other participating entity on a proportional basis. If a school district acquires real property by donation at an appropriate school site approved by the school facilities board, the school facilities board shall distribute an amount equal to twenty per cent of the fair market value of the donated real property that can be used for academic purposes. The school district shall place the monies in the unrestricted capital outlay fund and increase the unrestricted capital outlay limit by the amount of monies placed in the fund. Monies distributed under this subsection shall be distributed from the new school facilities fund.

G. In addition to distributions to school districts based on pupil growth projections, a school district may submit an application to the school facilities board for monies from the new school facilities fund if one or

more school buildings have outlived their useful life. If the school facilities board determines that the school district needs to build a new school building for these reasons, the school facilities board shall remove the square footage computations that represent the building from the computation of the school district's total square footage for purposes of this section. If the square footage recomputation reflects that the school district no longer meets building adequacy standards, the school district qualifies for a distribution of monies from the new school construction formula in an amount determined pursuant to subsection D of this section. Buildings removed from a school district's total square footage pursuant to this subsection shall not be included in the computation of monies from the building renewal fund established by section 15-2031. The school facilities board may modify the base cost per square foot prescribed in this subsection under extraordinary circumstances for geographic factors or site conditions.

H. School districts that receive monies from the new school facilities fund shall establish a district new school facilities fund and shall use the monies in the district new school facilities fund only for the purposes prescribed in this section. By October 15 of each year, each school district shall report to the school facilities board the projects funded at each school in the previous fiscal year with monies from the district new school facilities fund and shall provide an accounting of the monies remaining in the new school facilities fund at the end of the previous fiscal year.

I. If a school district has surplus monies received from the new schools facilities fund, the school district may use the surplus monies for any other capital purpose.

Ch. 23

J. THE BOARD'S CONSIDERATION OF ANY APPLICATION FILED AFTER JULY 1, 2001 FOR MONIES TO FUND THE CONSTRUCTION OF NEW SCHOOL FACILITIES PROPOSED TO BE LOCATED IN TERRITORY IN THE VICINITY OF A MILITARY AIRPORT AS DEFINED IN SECTION 28-8461 SHALL INCLUDE, IF AFTER NOTICE IS TRANSMITTED TO THE MILITARY AIRPORT PURSUANT TO SECTION 15-2002 AND BEFORE THE PUBLIC HEARING THE MILITARY AIRPORT PROVIDES COMMENTS AND ANALYSIS CONCERNING COMPATIBILITY OF THE PROPOSED SCHOOL FACILITIES WITH THE HIGH NOISE OR ACCIDENT POTENTIAL GENERATED BY MILITARY AIRPORT OPERATIONS THAT MAY HAVE AN ADVERSE EFFECT ON PUBLIC HEALTH AND SAFETY, CONSIDERATION AND ANALYSIS OF THE COMMENTS AND ANALYSIS PROVIDED BY THE MILITARY AIRPORT BEFORE MAKING A FINAL DETERMINATION.

EXPLANATION OF BLEND
SECTION 16-461

Laws 2001, Chapters 128 and 169

Laws 2001, Ch. 128, section 1 — Effective August 9

Laws 2001, Ch. 169, section 6 — Effective August 9

Explanation

Since the Ch. 128 version includes all of the changes made by the Ch. 169 version, the Laws 2001, Ch. 128 amendment of section 16-461 is the blend of both the Laws 2001, Ch. 128 and Ch. 169 versions.

BLEND OF SECTION 16-461
Laws 2001, Chapters 128 and 169

16-461. Sample primary election ballots; submission to party chairmen for examination; preparation, printing and distribution of ballot

A. At least forty-five days before a primary election, the officer in charge of that election shall:

1. Prepare a proof of a sample ballot.

2. Submit the sample ballot proof of each party to the county chairman or in city or town primaries to the city or town chairman.

3. Mail a sample ballot proof to each candidate for whom a nomination paper and petitions have been filed.

B. Within five days after receipt of the sample ballot, the county chairman of each political party shall suggest to the election officer any change ~~he~~ THE OFFICER considers should be made in ~~his~~ THE OFFICER'S party ballot, and if upon examination the election officer finds an error or omission in the ballot ~~he~~ THE OFFICER shall correct it. The election officer shall cause the sample ballots to be printed and distributed as required by law, shall maintain a copy of each sample ballot ~~in his office~~ and shall post a notice indicating that sample ballots are available on request ~~in his office~~. The official sample ballot shall be printed on colored paper. FOR VOTERS WHO ARE NOT REGISTERED WITH A PARTY THAT IS ENTITLED TO CONTINUED REPRESENTATION ON THE BALLOT PURSUANT TO SECTION 16-804, THE ELECTION OFFICER MAY PRINT AND DISTRIBUTE THE REQUIRED SAMPLE BALLOTS IN AN ALTERNATIVE FORMAT, INCLUDING A REDUCED SIZE FORMAT.

Ch. 128

Chs. 128 and 169

C. Not later than forty days before a primary election, the county chairman of a political party may request one sample primary election ballot of ~~his~~ THE CHAIRMAN'S party for each election precinct.

Ch. 128

D. The board of supervisors shall have printed mailer-type sample ballots for a primary election and shall mail at least eleven days prior to the election one sample ballot of a political party to each household containing a registered voter of that political party. A certified claim shall be presented to the secretary of state by the board of supervisors for the actual cost of printing, labeling and postage of each sample ballot actually mailed, and the secretary of state shall direct payment of the authenticated claim from funds of ~~his~~ THE SECRETARY OF STATE'S office.

Ch. 128

E. For city and town elections, the governing body of a city or town may have printed mailer-type sample ballots for a primary election. If the city or town has printed such sample ballots, the city or town shall provide for the distribution of such ballots and shall bear the expense of printing and distribution of such sample ballots.

F. The return address on the mailer-type sample ballots shall not contain the name of an appointed or elected public officer nor may the name of an appointed or elected public officer be used to indicate who produced the sample ballot.

G. The great seal of the state of Arizona shall be imprinted along with the words "official voting materials" on the mailing face of each sample ballot. In county, city or town elections the seal of such jurisdiction shall be substituted for the state seal.

EXPLANATION OF BLEND
SECTION 19-101

Laws 2001, Chapters 35 and 169

Laws 2001, Ch. 35, section 1 — Effective August 9

Laws 2001, Ch. 169, section 9 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 35 and Ch. 169 text changes to section 19-101 are blended in the form shown on the following pages.

BLEND OF SECTION 19-101
Laws 2001, Chapters 35 and 169

19-101. Referendum petition; circulators; violation; classification

A. The following shall be the form for referring to the people by referendum petition a measure or item, section or part of a measure enacted by the legislature, or by the legislative body of an incorporated city, town or county:

Referendum Description

(Insert a description of no more than one hundred words of the principal provisions of the measure sought to be referred.)

Notice: This is only a description of the measure sought to be referred prepared by the sponsor of the measure. It may not include every provision contained in the measure. Before signing, make sure the title and text of the measure are attached. You have the right to read or examine the title and text before signing.

Petition for Referendum

_____ To the secretary of state: (or to the corresponding officer for or on local county, city, or town measures)

Ch. 35 — We, the undersigned citizens and qualified electors of the state of Arizona, respectfully order that the senate (or house) bill No. ___ (or other local county, city, or town measure) entitled (title of act or ordinance, and if the petition is against less than the whole act or ordinance then set forth here the item, section, or part, of any measure on which the referendum is used), passed by the _____ session of the legislature of the state of Arizona, at the general (or special, as the case may be) session of said legislature, (or by A county, city or town legislative body) shall be referred to a

Ch. 35 — vote of the qualified electors of the state, (county, city or town) for their approval or rejection at the next regular general election (or COUNTY, city or town election) and each for himself says:

I have personally signed this petition with my first and last names. I have not signed any other petition for the same measure. I am a qualified elector of the state of Arizona, county of (or city or town and county of, as the case may be) _____.

"Warning

It is a class 1 misdemeanor for any person to knowingly sign an initiative or referendum petition with a name other than his own, except in a circumstance where he signs for a person, in the presence of and at the specific request of such person, who is incapable of signing his own name because of physical infirmity, or to knowingly sign his name more than once for the

same measure, or to knowingly sign such petition when he is not a qualified elector."

Ch. 169 ——

Signature	Name (first and last name printed)	~~Residence~~ ACTUAL address (street & no. and if no street address, describe residence location)	Arizona post office address & zip code	City or town (if any)	Date signed

(Fifteen lines for signatures which shall be numbered)

The validity of signatures on this sheet must be sworn to by the circulator before a notary public on the form appearing on the back of the sheet.

Number _____

B. Each petition sheet shall have printed in capital letters in no less than twelve point bold-faced type in the upper right-hand corner of the face of the petition sheet the following:

"_____ paid circulator" "_____ volunteer".

C. A circulator of a referendum petition shall state whether he is a paid circulator or volunteer by checking the appropriate line on the petition form before circulating the petition for signatures.

D. Signatures obtained on referendum petitions in violation of

Ch. 35 —— subsection C ~~of this section~~ are void and shall not be counted in determining the legal sufficiency of the petition. The presence of signatures that are invalidated under this subsection on a petition does not invalidate other signatures on the petition that were obtained as prescribed by this section.

EXPLANATION OF BLEND
SECTION 20-167

Laws 2001, Chapters 58 and 205

Laws 2001, Ch. 58, section 3 — Effective August 9

Laws 2001, Ch. 205, section 6 — Effective October 1

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 58 and Ch. 205 text changes to section 20-167 are blended in the form shown on the following pages.

Section 20-167 was amended an additional time by Laws 2001, Ch. 327 with a delayed effective date that will require separate publication in addition to this blend.

BLEND OF SECTION 20-167
Laws 2001, Chapters 58 and 205

20-167. Fees

Ch. 205 — A. The director shall collect in advance the following fees, which, ~~subsequent to issuance of a receipt evidencing any~~ ARE NONREFUNDABLE ON payment, ~~shall not be refunded by the director~~:

	Not Less Than:	Not More Than:
1. For filing charter documents:		
(a) Original charter documents, articles of incorporation, bylaws, or record of organization of insurers, or certified copies thereof, required to be filed with the director and not also subject to filing in the office of the corporation commission	$ 25.00	$ 75.00
(b) Amended charter documents	10.00	30.00
(c) No charge or fee shall be required for filing with the director any of such documents also required by law to be filed in the office of the corporation commission		
2. Certificate of authority:		
(a) Issuance:		
Fraternal benefit societies	$ 10.00	$ 30.00
Medical or hospital service corporations~~, or domestic benefit insurers~~	25.00	75.00
All other insurers	65.00	195.00
Ch. 58 — (b) Renewal:		
Fraternal benefit societies~~, or domestic benefit insurers~~	10.00	30.00
Medical or hospital service corporations	25.00	75.00
Domestic stock life and disability insurers only or either	500.00	1,500.00
Domestic life and disability reinsurer only or either	$1,500.00	$4,500.00
All other insurers	45.00	135.00
3. Filing annual statement	100.00	300.00
4. Licenses and examinations:		
(a) Licenses:		
Surplus lines broker's license, biennially	200.00	600.00
All other licenses, biennially	20.00	60.00

Ch. 205 (b) Examinations for license~~, agents and brokers~~:

Examination on laws and one kind of insurance	5.00	15.00
Examination on laws and two or more kinds of insurance	10.00	30.00

5. Miscellaneous:

Fee accompanying service of process upon director	$ 5.00	$ 15.00
Certificate of director, under seal	1.00	3.00
Copy of document filed in director's office, per page	0.50	1.50

B. The director shall deposit, pursuant to sections 35-146 and 35-147, all fees for licenses so collected in the state general fund. No refund shall be allowed for any unused portion of a fee nor shall fees be prorated, except that the fee for an initial license if applied for in the second half of the biennial term shall not exceed one-half of the license fee.

C. The license fees prescribed by this section shall be payment in full of all demands for any and all state, county, district and municipal license fees, license taxes, business privilege taxes and business privilege fees and charges of every kind.

Ch. 205 D. Each domestic stock life ~~and~~ OR disability insurer ~~only or either, which~~ THAT pays the renewal fee required under the provisions of subsection A of this section, shall be entitled to a credit in the amount of four hundred fifty-five dollars to apply to the premium tax THE INSURER then ~~owed by such company~~ OWES pursuant to ~~the provisions of~~ section 20-224, but ~~such~~ THE credit shall not be cumulative.

E. Each domestic life and disability reinsurer only or either, which pays the renewal fee required under the provisions of subsection A of this section, shall be entitled to a credit in the amount of fourteen hundred fifty-five dollars to apply to the premium tax then owed by such company pursuant to the provisions of section 20-224, but such credit shall not be cumulative.

Ch. 205 F. The director may contract for the examination for the licensing of adjusters, ~~agents, brokers~~ INSURANCE PRODUCERS, BAIL BOND AGENTS, RISK MANAGEMENT CONSULTANTS and surplus lines brokers. When the director does so, the fee for examinations for licenses pursuant to this section shall be payable directly to the contractor by the applicant for examination. The director may agree to a reasonable examination fee to be charged by the contractor. Such fee may exceed the amounts prescribed in subsection A, paragraph 4, subdivision (b) of this section.

Ch. 205 G. ~~Beginning July 1, 1986 and every~~ EACH year ~~thereafter~~, if the revenue collected from fees for the prior calendar year is less than ninety-five per cent or more than one hundred ten per cent of the appropriated budget for the beginning fiscal year, the director shall revise the fees within the limits prescribed by subsection A of this section on a uniform percentage basis among all fee categories and shall adjust the credits prescribed by subsections D and E of this section as necessary in order to retain any required uniformity. Fees shall be revised in such a

manner that the revenue derived from the fees equals at least ninety-five per cent but not more than one hundred ten per cent of the appropriated budget for the beginning fiscal year, and such revised fee schedule shall be effective July 1 of the subsequent year.

H. The director may contract with a voluntary domestic organization of surplus lines brokers to perform any transaction prescribed in chapter 2, article 5 of this title, including the acceptance or maintenance of the reports required by section 20-408. The director may allow the contractor to charge a stamping fee. The surplus lines broker shall pay the stamping fee established pursuant to this section directly to the contractor.

I. For the purposes of subsection H of this section, "stamping fee" means a reasonable filing fee charged by a contractor for any transaction prescribed in chapter 2, article 5 of this title, including the acceptance or maintenance of the reports required by section 20-408.

EXPLANATION OF BLEND
SECTION 20-267

Laws 2001, Chapters 205 and 239

Laws 2001, Ch. 205, section 10 — Effective October 1

Laws 2001, Ch. 239, section 1 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 205 and Ch. 239 text changes to section 20-267 are blended in the form shown on the following page.

BLEND OF SECTION 20-267
Laws 2001, Chapters 205 and 239

20-267. Motor vehicle liability policies; monthly basis; fee

Ch. 205 — A. An insurer writing or an ~~agent or broker~~ INSURANCE PRODUCER soliciting applications for motor vehicle liability policies shall make available a monthly premium payment plan on policies that insure six or fewer motor vehicles.

B. At the inception of a monthly premium payment plan, an insurer may not require an insured to pay more than an amount equal to one and one-half times the monthly premium in addition to the first month's premium. Premiums for each month of coverage collected thereafter under a monthly premium payment plan may be due and payable not more than thirty days before the month of coverage related to that premium. An insurer may cancel or fail to renew a policy for nonpayment of premium, except that a cancellation or

Ch. 239 — nonrenewal is not effective until the requirements of ~~sections 20-1632 and~~ SECTION 20-1632.01 are met.

C. An insurer~~, agent or broker~~ OR INSURANCE PRODUCER may charge a fee

Ch. 205 — pursuant to section 20-465 that is reasonably related to the administrative expenses of the monthly premium payment plan.

D. An insurer~~, agent or broker~~ OR INSURANCE PRODUCER may use a premium finance company to meet the requirements of this section. In financing the monthly premium payment plan, at the inception of a premium finance agreement, a premium finance company may not require an insured to pay more than an amount equal to one and one-half times the monthly premium and the first month's premium. Payments collected thereafter under the premium finance agreement may be due and payable not more than every thirty days until the premium finance agreement is satisfied. A premium finance company may cancel a premium finance agreement for nonpayment pursuant to section 6-1415.

EXPLANATION OF BLEND
SECTION 20-461

Laws 2001, Chapters 58 and 343

Laws 2001, Ch. 58, section 8 — Effective August 9

Laws 2001, Ch. 343, section 1 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 58 and Ch. 343 text changes to section 20-461 are blended in the form shown on the following pages.

BLEND OF SECTION 20-461
Laws 2001, Chapters 58 and 343

20-461. Unfair claim settlement practices

A. A person shall not commit or perform with such a frequency to indicate as a general business practice any of the following:

1. Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue.

2. Failing to acknowledge and act reasonably and promptly upon communications with respect to claims arising under an insurance policy.

3. Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under an insurance policy.

4. Refusing to pay claims without conducting a reasonable investigation based upon all available information.

5. Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed.

6. Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear.

7. Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by the insureds.

8. Attempting to settle a claim for less than the amount to which a reasonable person would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application.

9. Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of, the insured.

10. Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made.

11. Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

12. Delaying the investigation or payment of claims by requiring an insured, a claimant or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.

13. Failing to promptly settle claims if liability has become reasonably clear under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.

14. Failing to promptly provide a reasonable explanation of the basis in the insurance policy relative to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

15. Attempting to settle claims for the replacement of any nonmechanical sheet metal or plastic part which generally constitutes the

exterior of a motor vehicle, including inner and outer panels, with an aftermarket crash part which is not made by or for the manufacturer of an insured's motor vehicle unless the part meets the specifications of section 44-1292 and unless the consumer is advised in a written notice attached to or printed on a repair estimate which:

(a) Clearly identifies each part.

(b) Contains the following information in ten point or larger type: "This estimate has been prepared based on the use of replacement parts supplied by a source other than the manufacturer of your motor vehicle. Warranties applicable to these replacement parts are provided by the manufacturer or distributor of these parts rather than the manufacturer of your vehicle."

Ch. 58 16. As an insurer subject to section 20-826, ~~20-934,~~ 20-1342, 20-1402 or 20-1404, or as an insurer of the same type as those subject to section 20-826, ~~20-934,~~ 20-1342, 20-1402 or 20-1404 that issues policies, contracts, plans, coverages or evidences of coverage for delivery in this state, failing to pay charges for reasonable and necessary services provided by any physician licensed pursuant to title 32, chapter 8, 13 or 17, if the services are within the lawful scope of practice of the physician and the insurance coverage includes diagnosis and treatment of the condition or complaint, regardless of the nomenclature used to describe the condition, complaint or service.

17. Failing to comply with chapter 15 of this title.

Ch. 343 18. DENYING LIABILITY FOR A CLAIM UNDER A MOTOR VEHICLE LIABILITY POLICY IN EFFECT AT THE TIME OF AN ACCIDENT WITHOUT HAVING SUBSTANTIAL FACTS BASED ON REASONABLE INVESTIGATION TO JUSTIFY THE DENIAL FOR DAMAGES OR INJURIES THAT ARE A RESULT OF THE ACCIDENT AND THAT WERE CAUSED BY THE INSURED IF THE DENIAL IS BASED SOLELY ON A MEDICAL CONDITION THAT COULD AFFECT THE INSURED'S DRIVING ABILITY.

B. Nothing in subsection A, paragraph 16 of this section shall be construed to prohibit the application of deductibles, coinsurance, preferred provider organization requirements, cost containment measures or quality assurance measures if they are equally applied to all types of physicians referred to in this section, and if any limitation or condition placed upon payment to or upon services, diagnosis or treatment by any physician covered by this section is equally applied to all physicians referred to in subsection A, paragraph 16 of this section, without discrimination to the usual and customary procedures of any type of physician.

C. In prescribing rules to implement this section, the director shall follow, to the extent appropriate, the national association of insurance commissioners unfair claims settlement practices model regulation.

D. Nothing contained in this section is intended to provide any private right or cause of action to or on behalf of any insured or uninsured resident or nonresident of this state. It is, however, the specific intent of this section to provide solely an administrative remedy to the director for any violation of this section or rule related thereto.

E. The director shall deposit, pursuant to sections 35-146 and 35-147, all civil penalties collected pursuant to this article in the state general fund.

EXPLANATION OF BLEND
SECTION 20-466

Laws 2001, Chapters 131 and 162

Laws 2001, Ch. 131, section 1 — Effective August 9

Laws 2001, Ch. 162, section 2 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 131 and Ch. 162 text changes to section 20-466 are blended in the form shown on the following pages.

BLEND OF SECTION 20-466
Laws 2001, Chapters 131 and 162

20-466. Fraud unit; peace officer status; powers; information sharing duty of insurers

A. A fraud unit is established in the department of insurance.

B. The fraud unit shall work in conjunction with the department of public safety.

C. The director may investigate any act or practice of fraud prohibited by section 20-466.01 and any other act or practice of fraud against an insurer or entity licensed under this title. The director shall administer the fraud unit.

D. THE DIRECTOR MAY EMPLOY INVESTIGATORS FOR THE FRAUD UNIT. A FRAUD UNIT INVESTIGATOR HAS AND SHALL EXERCISE THE LAW ENFORCEMENT POWERS OF A PEACE OFFICER OF THIS STATE BUT ONLY WHILE ACTING IN THE COURSE AND SCOPE OF EMPLOYMENT FOR THE DEPARTMENT. THE DIRECTOR SHALL ADOPT GUIDELINES FOR THE CONDUCT OF INVESTIGATIONS THAT ARE SUBSTANTIALLY SIMILAR TO THE INVESTIGATIVE POLICY AND PROCEDURAL GUIDELINES OF THE DEPARTMENT OF PUBLIC SAFETY FOR PEACE OFFICERS. FRAUD UNIT INVESTIGATORS SHALL NOT PREEMPT THE AUTHORITY AND JURISDICTION OF OTHER LAW ENFORCEMENT AGENCIES OF THIS STATE OR ITS POLITICAL SUBDIVISIONS. FRAUD UNIT INVESTIGATORS: Ch. 131

1. SHALL HAVE AT LEAST THE QUALIFICATIONS PRESCRIBED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD PURSUANT TO SECTION 41-1822.

2. ARE NOT ELIGIBLE TO PARTICIPATE IN THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM ESTABLISHED BY TITLE 38, CHAPTER 5, ARTICLE 4 DUE SOLELY TO EMPLOYMENT AS FRAUD UNIT INVESTIGATORS.

~~D.~~ E. The director may request the submission of papers, documents, reports or other evidence ~~relative~~ RELATING to an investigation under this section. The director may issue subpoenas and take other actions pursuant to section 20-160. The materials are privileged and confidential until the director completes the investigation. ~~The~~ ANY DOCUMENTS, materials ~~are~~ OR OTHER INFORMATION THAT IS PROVIDED TO THE DIRECTOR PURSUANT TO THIS SECTION IS not subject to discovery or subpoena until opened for public inspection by ~~the fraud unit unless~~ the director ~~consents~~ or, after notice and a hearing, a court determines that the director would not be unduly burdened by compliance with the subpoena. THE DIRECTOR MAY USE THE DOCUMENTS, MATERIALS OR OTHER INFORMATION IN THE FURTHERANCE OF ANY REGULATORY OR LEGAL ACTION BROUGHT AS A PART OF THE DIRECTOR'S OFFICIAL DUTIES. Ch. 162

~~E.~~ F. If THE DOCUMENTS, materials OR OTHER INFORMATION the director seeks to obtain by request ~~are~~ IS located outside this state, the person requested to provide the DOCUMENTS, materials OR OTHER INFORMATION shall arrange for the fraud unit or a representative, including an official of the state in which the DOCUMENTS, materials ~~are~~ OR INFORMATION IS located, to examine the DOCUMENTS, materials OR OTHER INFORMATION where ~~the materials are~~ IT IS located. The director may respond to similar requests from other states.

~~F.~~ G. An insurer that believes a fraudulent claim has been or is being made shall send to the director, on a form prescribed by the director,

information relative to the claim including the identity of parties claiming loss or damage as a result of an accident and any other information the fraud unit may require. The director shall review the report and determine if further investigation is necessary. If the director determines that further investigation is necessary, the director may conduct an independent investigation to determine if fraud, deceit or intentional misrepresentation in the submission of the claim exists. If the director is satisfied that fraud, deceit or intentional misrepresentation of any kind has been committed in the submission of a claim, the director may report the violations of the law to the reporting insurer, to the appropriate licensing agency as defined in section 20-466.04 and to the appropriate county attorney or the attorney general for prosecution.

H. THE DIRECTOR MAY:

1. SHARE NONPUBLIC DOCUMENTS, MATERIALS OR OTHER INFORMATION WITH OTHER STATE, FEDERAL AND INTERNATIONAL REGULATORY AGENCIES, WITH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AND ITS AFFILIATES AND SUBSIDIARIES AND WITH STATE, FEDERAL AND INTERNATIONAL LAW ENFORCEMENT AUTHORITIES IF THE RECIPIENT AGREES AND WARRANTS THAT IT HAS THE AUTHORITY TO MAINTAIN THE CONFIDENTIALITY AND PRIVILEGED STATUS OF THE DOCUMENTS, MATERIALS OR OTHER INFORMATION.

Ch. 162 — 2. RECEIVE DOCUMENTS, MATERIALS AND OTHER INFORMATION FROM THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AND ITS AFFILIATES AND SUBSIDIARIES AND FROM REGULATORY AND LAW ENFORCEMENT OFFICIALS OF OTHER JURISDICTIONS AND SHALL MAINTAIN AS CONFIDENTIAL OR PRIVILEGED ANY DOCUMENT, MATERIAL OR OTHER INFORMATION RECEIVED WITH NOTICE OR THE UNDERSTANDING THAT IT IS CONFIDENTIAL OR PRIVILEGED UNDER THE LAWS OF THE JURISDICTION THAT IS THE SOURCE OF THE DOCUMENT, MATERIAL OR OTHER INFORMATION.

3. ENTER INTO AGREEMENTS THAT GOVERN THE SHARING AND USE OF DOCUMENTS, MATERIALS AND OTHER INFORMATION AND THAT ARE CONSISTENT WITH THIS SECTION.

I. A DISCLOSURE TO OR BY THE DIRECTOR PURSUANT TO THIS SECTION OR AS A RESULT OF SHARING INFORMATION PURSUANT TO SUBSECTION G OF THIS SECTION IS NOT A WAIVER OF ANY APPLICABLE PRIVILEGE OR CLAIM OF CONFIDENTIALITY IN THE DOCUMENTS, MATERIALS OR OTHER INFORMATION DISCLOSED OR SHARED.

Chs. 131 and 162 — ~~G.~~ J. ~~Beginning on July 1, 1997,~~ The director shall annually assess each insurer as defined in section 20-441, subsection B authorized to transact business in this state up to seven hundred dollars for the administration and operation of the fraud unit and the prosecution of fraud

Ch. 131 — pursuant to this section. Monies collected shall be deposited, PURSUANT TO SECTIONS 35-146 AND 35-147, in the state general fund. The director shall annually revise the fee in such a manner that the revenue derived from the fees equals at least ninety-five per cent but not more than one hundred ten per cent of the appropriated budget of the fraud unit for the prior fiscal year.

~~H.~~ K. A person, or an officer, employee or agent of the person acting within the scope of employment or agency of that officer, employee or agent, who in good faith files a report or provides other information to the fraud unit pursuant to this section is not subject to civil or criminal liability for reporting that information to the fraud unit.

EXPLANATION OF BLEND
SECTION 20-1057 (as amended by Laws 2000, Ch. 37, section 15 and Ch. 282, section 3)

Laws 2001, Chapters 324 and 344

Laws 2001, Ch. 324, section 18 — Effective August 9 (Retroactive to July 1, 2001)

Laws 2001, Ch. 344 , section 21 — Conditionally effective

Explanation

Since the Ch. 344 version includes all of the changes made by the Ch. 324 version, the Laws 2001, Ch. 344 amendment of section 20-1057 is the blend of both the Laws 2001, Ch. 324 and Ch. 344 versions.

The publisher will print this blend version pending the occurrence of the condition stated in Laws 2001, Ch. 344. If the condition does not occur before October 1, 2001, Laws 2001, Ch. 344 does not become effective and the publisher will delete this blend version of section 20-1057.

BLEND OF SECTION 20-1057
(as amended by Laws 2000, Ch. 37, section 15 and Ch. 282, section 3)
Laws 2001, Chapters 324 and 344

20-1057. Evidence of coverage by health care services organizations; renewability; definitions

A. Every enrollee in a health care plan shall be issued an evidence of coverage by the responsible health care services organization.

B. Any contract, except accidental death and dismemberment, applied for that provides family coverage shall, as to such coverage of family members, also provide that the benefits applicable for children shall be payable with respect to a newly born child of the enrollee from the instant of such child's birth, to a child adopted by the enrollee, regardless of the age at which the child was adopted, and to a child who has been placed for adoption with the enrollee and for whom the application and approval procedures for adoption pursuant to section 8-105 or 8-108 have been completed to the same extent that such coverage applies to other members of the family. The coverage for newly born or adopted children or children placed for adoption shall include coverage of injury or sickness including necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific premium is required to provide coverage for a child, the contract may require that notification of birth, adoption or adoption placement of the child and payment of the required premium must be furnished to the insurer within thirty-one days after the date of birth, adoption or adoption placement in order to have the coverage continue beyond the thirty-one day period.

C. Any contract, except accidental death and dismemberment, that provides coverage for psychiatric, drug abuse or alcoholism services shall require the health care services organization to provide reimbursement for such services in accordance with the terms of the contract without regard to whether the covered services are rendered in a psychiatric special hospital or general hospital.

D. No evidence of coverage or amendment to the coverage shall be issued or delivered to any person in this state until a copy of the form of the evidence of coverage or amendment to the coverage has been filed with and approved by the director.

E. An evidence of coverage shall contain a clear and complete statement if a contract, or a reasonably complete summary if a certificate of contract, of:

1. The health care services and the insurance or other benefits, if any, to which the enrollee is entitled under the health care plan.

2. Any limitations of the services, kind of services, benefits or kind of benefits to be provided, including any deductible or copayment feature.

3. Where and in what manner information is available as to how services may be obtained.

4. The enrollee's obligation, if any, respecting charges for the health care plan.

Ch. 344 F. An evidence of coverage shall NOT contain ~~no~~ provisions or statements ~~which~~ THAT are unjust, unfair, inequitable, misleading or deceptive, ~~which~~ THAT encourage misrepresentation or ~~which~~ THAT are untrue.

G. The director shall approve any form of evidence of coverage if the requirements of subsections E and F of this section are met. It is unlawful to issue such form until approved. If the director does not disapprove any such form within forty-five days after the filing of the form, it is deemed approved. If the director disapproves a form of evidence of coverage, the director shall notify the health care services organization. In the notice, the director shall specify the reasons for the director's disapproval. The director shall grant a hearing on such disapproval within fifteen days after a request for a hearing in writing is received from the health care services organization.

H. A health care services organization shall not cancel or refuse to renew an enrollee's evidence of coverage that was issued on a group basis without giving notice of the cancellation or nonrenewal to the enrollee and, on request of the director, to the department of insurance. A notice by the organization to the enrollee of cancellation or nonrenewal of the enrollee's evidence of coverage shall be mailed to the enrollee at least sixty days Ch. 344 ~~prior to~~ BEFORE the effective date of such cancellation or nonrenewal. The notice shall include or be accompanied by a statement in writing of the reasons as stated in the contract for such action by the organization. Failure of the organization to comply with this subsection shall invalidate any cancellation or nonrenewal except a cancellation or nonrenewal for nonpayment of premium, for fraud or misrepresentation in the application or other enrollment documents or for loss of eligibility as defined in the evidence of coverage. A health care services organization shall not cancel an enrollee's evidence of coverage issued on a group basis because of the enrollee's or dependent's age, except for loss of eligibility as defined in the evidence of coverage, sex, health status-related factor, national origin or frequency of utilization of basic health care services of the enrollee. An evidence of coverage issued on a group basis shall clearly delineate all terms under which the health care services organization may cancel or refuse to renew an evidence of coverage for an enrollee or dependent. Nothing in this subsection prohibits the cancellation or nonrenewal of a health benefits plan contract issued on a group basis for any of the reasons allowed in section 20-2309. A health care services organization may cancel or nonrenew an evidence of coverage issued to an individual on a nongroup basis only for the reasons allowed by subsection N of this section.

I. A health care plan that provides coverage for surgical services for a mastectomy shall also provide coverage incidental to the patient's covered mastectomy for surgical services for reconstruction of the breast on which the mastectomy was performed, surgery and reconstruction of the other breast to produce a symmetrical appearance, prostheses, treatment of physical complications for all stages of the mastectomy, including lymphedemas, and at least two external postoperative prostheses subject to all of the terms and conditions of the policy.

J. A contract that provides coverage for surgical services for a mastectomy shall also provide coverage for mammography screening performed

on dedicated equipment for diagnostic purposes on referral by a patient's physician, subject to all of the terms and conditions of the policy and according to the following guidelines:

1. A baseline mammogram for a woman from age thirty-five to thirty-nine.

2. A mammogram for a woman from age forty to forty-nine every two years or more frequently based on the recommendation of the woman's physician.

3. A mammogram every year for a woman fifty years of age and over.

K. Any contract that is issued to the enrollee and that provides coverage for maternity benefits shall also provide that the maternity benefits apply to the costs of the birth of any child legally adopted by the enrollee if all the following are true:

1. The child is adopted within one year of birth.

2. The enrollee is legally obligated to pay the costs of birth.

3. All preexisting conditions and other limitations have been met and all deductibles and copayments have been paid by the enrollee.

4. The enrollee has notified the insurer of the enrollee's acceptability to adopt children pursuant to section 8-105 within sixty days after such approval or within sixty days after a change in insurance policies, plans or companies.

L. The coverage prescribed by subsection K of this section is excess to any other coverage the natural mother may have for maternity benefits except coverage made available to persons pursuant to title 36, chapter 29 but not including coverage made available to persons defined as eligible under section 36-2901, paragraph ~~4~~ 6, subdivisions ~~(d), (e), (f) and (g)~~ (b), (c), (d) AND (e). If such other coverage exists the agency, attorney or individual arranging the adoption shall make arrangements for the insurance to pay those costs that may be covered under that policy and shall advise the adopting parent in writing of the existence and extent of the coverage without disclosing any confidential information such as the identity of the natural parent. The enrollee adopting parents shall notify their health care services organization of the existence and extent of the other coverage. A health care services organization is not required to pay any costs in excess of the amounts it would have been obligated to pay to its hospitals and providers if the natural mother and child had received the maternity and newborn care directly from or through that health care services organization.

Ch. 344

M. Each health care services organization shall offer membership to the following in a conversion plan ~~which~~ THAT provides the basic health care benefits required by the ~~department of health services~~ DIRECTOR:

Chs. 324 and 344

1. Each enrollee including the enrollee's enrolled dependents leaving a group.

2. Each enrollee and the enrollee's dependents who would otherwise cease to be eligible for membership because of the age of the enrollee or the enrollee's dependents or the death or the dissolution of marriage of an enrollee.

N. A health care services organization shall not cancel or nonrenew an evidence of coverage issued to an individual on a nongroup basis,

including a conversion plan, except for any of the following reasons and in compliance with the notice and disclosure requirements contained in subsection H of this section:

1. The individual has failed to pay premiums or contributions in accordance with the terms of the evidence of coverage or the health care services organization has not received premium payments in a timely manner.

2. The individual has performed an act or practice that constitutes fraud or the individual made an intentional misrepresentation of material fact under the terms of the evidence of coverage.

3. The health care services organization has ceased to offer coverage to individuals that is consistent with the requirements of sections 20-1379 and 20-1380.

4. If the health care services organization offers a health care plan in this state through a network plan, the individual no longer resides, lives or works in the service area served by the network plan or in an area for which the health care services organization is authorized to transact business but only if the coverage is terminated uniformly without regard to any health status-related factor of the covered individual.

5. If the health care services organization offers health coverage in this state in the individual market only through one or more bona fide associations, the membership of the individual in the association has ceased but only if that coverage is terminated uniformly without regard to any health status-related factor of any covered individual.

O. A conversion plan may be modified if the modification complies with the notice and disclosure provisions for cancellation and nonrenewal under subsection H of this section. A modification of a conversion plan ~~which~~ THAT has already been issued shall not result in the effective elimination of any benefit originally included in the conversion plan.

Ch. 344

P. Any person who is a United States armed forces reservist, who is ordered to active military duty on or after August 22, 1990 and who was enrolled in a health care plan shall have the right to reinstate such coverage upon release from active military duty subject to the following conditions:

1. The reservist shall make written application to the health plan within ninety days of discharge from active military duty or within one year of hospitalization continuing after discharge. Coverage shall be effective upon receipt of the application by the health plan.

2. The health plan may exclude from such coverage any health or physical condition arising during and occurring as a direct result of active military duty.

Q. The director shall adopt emergency rules applicable to persons who are leaving active service in the armed forces of the United States and returning to civilian status consistent with the provisions of subsection P of this section including:

1. Conditions of eligibility.
2. Coverage of dependents.
3. Preexisting conditions.
4. Termination of insurance.
5. Probationary periods.

6. Limitations.
7. Exceptions.
8. Reductions.
9. Elimination periods.
10. Requirements for replacement.
11. Any other conditions of evidences of coverage.

R. Any contract that provides maternity benefits shall not restrict benefits for any hospital length of stay in connection with childbirth for the mother or the newborn child to less than forty-eight hours following a normal vaginal delivery or ninety-six hours following a cesarean section. The contract shall not require the provider to obtain authorization from the health care services organization for prescribing the minimum length of stay required by this subsection. The contract may provide that an attending provider in consultation with the mother may discharge the mother or the newborn child before the expiration of the minimum length of stay required by this subsection. The health care services organization shall not:

1. Deny the mother or the newborn child eligibility or continued eligibility to enroll or to renew coverage under the terms of the contract solely for the purpose of avoiding the requirements of this subsection.

2. Provide monetary payments or rebates to mothers to encourage those mothers to accept less than the minimum protections available pursuant to this subsection.

3. Penalize or otherwise reduce or limit the reimbursement of an attending provider because that provider provided care to any insured under the contract in accordance with this subsection.

4. Provide monetary or other incentives to an attending provider to induce that provider to provide care to an insured under the contract in a manner that is inconsistent with this subsection.

5. Except as described in subsection S of this section, restrict benefits for any portion of a period within the minimum length of stay in a manner that is less favorable than the benefits provided for any preceding portion of that stay.

S. Nothing in subsection R of this section:

1. Requires a mother to give birth in a hospital or to stay in the hospital for a fixed period of time following the birth of the child.

2. Prevents a health care services organization from imposing deductibles, coinsurance or other cost sharing in relation to benefits for hospital lengths of stay in connection with childbirth for a mother or a newborn child under the contract, except that any coinsurance or other cost sharing for any portion of a period within a hospital length of stay required pursuant to subsection R of this section shall not be greater than the coinsurance or cost sharing for any preceding portion of that stay.

3. Prevents a health care services organization from negotiating the level and type of reimbursement with a provider for care provided in accordance with subsection R of this section.

T. Any contract or evidence of coverage that provides coverage for diabetes shall also provide coverage for equipment and supplies that are

medically necessary and that are prescribed by a health care provider including:

1. Blood glucose monitors.

2. Blood glucose monitors for the legally blind.

3. Test strips for glucose monitors and visual reading and urine testing strips.

4. Insulin preparations and glucagon.

5. Insulin cartridges.

6. Drawing up devices and monitors for the visually impaired.

7. Injection aids.

8. Insulin cartridges for the legally blind.

9. Syringes and lancets including automatic lancing devices.

10. Prescribed oral agents for controlling blood sugar that are included on the plan formulary.

11. To the extent coverage is required under medicare, podiatric appliances for prevention of complications associated with diabetes.

12. Any other device, medication, equipment or supply for which coverage is required under medicare from and after January 1, 1999. The coverage required in this paragraph is effective six months after the coverage is required under medicare.

U. Nothing in subsection T of this section:

1. Entitles a member or enrollee of a health care services organization to equipment or supplies for the treatment of diabetes that are not medically necessary as determined by the health care services organization medical director or the medical director's designee.

2. Provides coverage for diabetic supplies obtained by a member or enrollee of a health care services organization without a prescription unless otherwise permitted pursuant to the terms of the health care plan.

3. Prohibits a health care services organization from imposing deductibles, coinsurance or other cost sharing in relation to benefits for equipment or supplies for the treatment of diabetes.

V. Any contract or evidence of coverage that provides coverage for prescription drugs shall not limit or exclude coverage for any prescription drug prescribed for the treatment of cancer on the basis that the prescription drug has not been approved by the United States food and drug administration for the treatment of the specific type of cancer for which the prescription drug has been prescribed, if the prescription drug has been recognized as safe and effective for treatment of that specific type of cancer in one or more of the standard medical reference compendia prescribed in subsection W of this section or medical literature that meets the criteria prescribed in subsection W of this section. The coverage required under this subsection includes covered medically necessary services associated with the administration of the prescription drug. This subsection does not:

1. Require coverage of any prescription drug used in the treatment of a type of cancer if the United States food and drug administration has determined that the prescription drug is contraindicated for that type of cancer.

2. Require coverage for any experimental prescription drug that is not approved for any indication by the United States food and drug administration.

3. Alter any law with regard to provisions that limit the coverage of prescription drugs that have not been approved by the United States food and drug administration.

4. Notwithstanding section 20-1057.02, require reimbursement or coverage for any prescription drug that is not included in the drug formulary or list of covered prescription drugs specified in the contract or evidence of coverage.

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5. Notwithstanding section 20-1057.02, prohibit a contract OR EVIDENCE OF COVERAGE from limiting or excluding coverage of a prescription drug, if the decision to limit or exclude coverage of the prescription drug is not based primarily on the coverage of prescription drugs required by this section.

6. Prohibit the use of deductibles, coinsurance, copayments or other cost sharing in relation to drug benefits and related medical benefits offered.

W. For the purposes of subsection V of this section:

1. The acceptable standard medical reference compendia are the following:

(a) The American medical association drug evaluations, a publication of the American medical association.

(b) The American hospital formulary service drug information, a publication of the American society of health system pharmacists.

(c) Drug information for the health care provider, a publication of the United States pharmacopoeia convention.

2. Medical literature may be accepted if all of the following apply:

(a) At least two articles from major peer reviewed professional medical journals have recognized, based on scientific or medical criteria, the drug's safety and effectiveness for treatment of the indication for which the drug has been prescribed.

(b) No article from a major peer reviewed professional medical journal has concluded, based on scientific or medical criteria, that the drug is unsafe or ineffective or that the drug's safety and effectiveness cannot be determined for the treatment of the indication for which the drug has been prescribed.

(c) The literature meets the uniform requirements for manuscripts submitted to biomedical journals established by the international committee of medical journal editors or is published in a journal specified by the United States department of health and human services as acceptable peer reviewed medical literature pursuant to section 186(t)(2)(B) of the social security act (42 United States Code section 1395x(t)(2)(B)).

X. A health care services organization shall not issue or deliver any advertising matter or sales material to any person in this state until the health care services organization files the advertising matter or sales material with the director. This subsection does not require a health care services organization to have the prior approval of the director to issue or deliver the advertising matter or sales material. If the director finds that

the advertising matter or sales material, in whole or in part, is false, deceptive or misleading, the director may issue an order disapproving the advertising matter or sales material, directing the health care services organization to cease and desist from issuing, circulating, displaying or using the advertising matter or sales material within a period of time specified by the director but not less than ten days and imposing any penalties prescribed in this title. At least five days before issuing an order pursuant to this subsection, the director shall provide the health care services organization with a written notice of the basis of the order to provide the health care services organization with an opportunity to cure the alleged deficiency in the advertising matter or sales material within a single five day period for the particular advertising matter or sales material at issue. The health care services organization may appeal the director's order pursuant to title 41, chapter 6, article 10. Except as otherwise provided in this subsection, a health care services organization may obtain a stay of the effectiveness of the order as prescribed in section 20-162. If the director certifies in the order and provides a detailed explanation of the reasons in support of the certification that continued use of the advertising matter or sales material poses a threat to the health, safety or welfare of the public, the order may be entered immediately without opportunity for cure and the effectiveness of the order is not stayed pending the hearing on the notice of appeal but the hearing shall be promptly instituted and determined.

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Y. Any contract or evidence of coverage THAT IS offered by a health care services organization AND that contains a prescription drug benefit shall provide coverage of medical foods to treat inherited metabolic disorders as provided by this section.

Z. The metabolic disorders triggering medical foods coverage under this section shall:

1. Be part of the newborn screening program prescribed in section 36-694.

2. Involve amino acid, carbohydrate or fat metabolism.

3. Have medically standard methods of diagnosis, treatment and monitoring including quantification of metabolites in blood, urine or spinal fluid or enzyme or DNA confirmation in tissues.

4. Require specially processed or treated medical foods that are generally available only under the supervision and direction of a physician who is licensed pursuant to title 32, chapter 13 or 17, that must be consumed throughout life and without which the person may suffer serious mental or physical impairment.

AA. Medical foods eligible for coverage under this section shall be prescribed or ordered under the supervision of a physician licensed pursuant to title 32, chapter 13 or 17 as medically necessary for the therapeutic treatment of an inherited metabolic disease.

BB. A health care services organization shall cover at least fifty per cent of the cost of medical foods prescribed to treat inherited metabolic

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disorders and covered pursuant to this section. ~~A corporation~~ AN ORGANIZATION may limit the maximum annual benefit for medical foods under

this section to five thousand dollars, which applies to the cost of all prescribed modified low protein foods and metabolic formula.

CC. Unless preempted under federal law or unless federal law imposes greater requirements than this section, this section applies to a provider sponsored health care services organization.

DD. For the purposes of:

1. This section:

(a) "Inherited metabolic disorder" means a disease caused by an inherited abnormality of body chemistry and includes a disease tested under the newborn screening program prescribed in section 36-694.

(b) "Medical foods" means modified low protein foods and metabolic formula.

(c) "Metabolic formula" means foods that are all of the following:

(i) Formulated to be consumed or administered enterally under the supervision of a physician who is licensed pursuant to title 32, chapter 13 or 17.

(ii) Processed or formulated to be deficient in one or more of the nutrients present in typical foodstuffs.

(iii) Administered for the medical and nutritional management of a person who has limited capacity to metabolize foodstuffs or certain nutrients contained in the foodstuffs or who has other specific nutrient requirements as established by medical evaluation.

(iv) Essential to a person's optimal growth, health and metabolic homeostasis.

(d) "Modified low protein foods" means foods that are all of the following:

(i) Formulated to be consumed or administered enterally under the supervision of a physician who is licensed pursuant to title 32, chapter 13 or 17.

(ii) Processed or formulated to contain less than one gram of protein per unit of serving, but does not include a natural food that is naturally low in protein.

(iii) Administered for the medical and nutritional management of a person who has limited capacity to metabolize foodstuffs or certain nutrients contained in the foodstuffs or who has other specific nutrient requirements as established by medical evaluation.

(iv) Essential to a person's optimal growth, health and metabolic homeostasis.

2. Subsection B of this section, "child", for purposes of initial coverage of an adopted child or a child placed for adoption but not for purposes of termination of coverage of such child, means a person under the age of eighteen years.

EXPLANATION OF BLEND
SECTION 20-1379 (as amended by Laws 2000, Ch. 355, section 10)

Laws 2001, Chapters 58 and 344

Laws 2001, Ch. 58, section 15	Effective August 9
Laws 2001, Ch. 344, section 24	Conditionally effective

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 58 and Ch. 344 text changes to section 20-1379 are blended in the form shown on the following pages.

The publisher will print this blend version pending the occurrence of the condition stated in Laws 2001, Ch. 344. If the condition does not occur before October 1, 2001, Laws 2001, Ch. 344 does not become effective and the publisher will delete this blend version of section 20-1379.

Section 20-1379 was amended an additional time by Laws 2001, Ch. 328 that will require separate publication in addition to this blend.

BLEND OF SECTION 20-1379 (as amended by Laws 2000, Ch. 355, section 10)
Laws 2001, Chapters 58 and 344

20-1379. Guaranteed availability of individual health insurance coverage; prior group coverage; definitions

A. Every health care insurer that offers individual health insurance coverage in the individual market in this state shall provide guaranteed availability of coverage to an eligible individual who desires to enroll in individual health insurance coverage and shall not:

1. Decline to offer that coverage to, or deny enrollment of, that individual.

2. Impose any preexisting condition exclusion for that coverage.

B. Every health care insurer that offers individual health insurance coverage in the individual market in this state shall offer all policy forms of health insurance coverage that are designed for, are made generally available and actively marketed to and enroll both eligible or other individuals. A health care insurer that offers only one policy form in the individual market complies with this section by offering that form to eligible individuals. A health care insurer also may comply with the requirements of this section by electing to offer at least two different policy forms to eligible individuals as provided by subsection C of this section.

C. A health care insurer shall meet the requirements prescribed in subsection B of this section if:

1. The health care insurer offers at least two different policy forms, both of which are designed for, made generally available and actively marketed to and enroll both eligible and other individuals.

2. The offer includes at least either:

(a) The policy forms with the largest and next to the largest earned premium volume of all policy forms offered by the health care insurer in this state in the individual market during a period not to exceed the preceding two calendar years.

(b) A choice of two policy forms with representative coverage, consisting of a lower level of coverage policy form and a higher level of coverage policy form, each of which includes benefits that are substantially similar to other individual health insurance coverage offered by the health care insurer in this state and each of which is covered by a method that provides for risk adjustment, risk spreading or a risk spreading mechanism among the health care insurer's policies.

D. The health care insurer's election pursuant to subsection C of this section is effective for policies offered during a period of at least two years.

E. If a health care insurer offers individual health insurance coverage in the individual market through a network plan, the health care insurer may do both of the following:

1. Limit the individuals who may be enrolled under health insurance coverage to those who live, reside or work within the service area for a network plan.

2. Within the service area of a network plan, deny health insurance coverage to individuals if the health care insurer has demonstrated, if required, to the director that both:

(a) The health care insurer will not have the capacity to deliver services adequately to additional individual enrollees because of the health care insurer's obligations to existing group contract holders and enrollees and individual enrollees.

(b) The health care insurer is applying this paragraph uniformly to individuals without regard to any health status-related factor of the individuals and without regard to whether the individuals are eligible individuals.

F. A health care insurer may deny individual health insurance coverage in the individual market to an eligible individual if the health care insurer demonstrates to the director that the health care insurer:

1. Does not have the financial reserves necessary to underwrite additional coverage.

2. Is denying coverage uniformly to all individuals in the individual market in this state pursuant to state law and without regard to any health status-related factor of the individuals and without regard to whether the individuals are eligible individuals.

G. If a health care insurer denies health insurance coverage in this state pursuant to subsection F of this section, the health care insurer shall not offer that coverage in the individual market in this state for one hundred eighty days after the date the coverage is denied or until the health care insurer demonstrates to the director that the health care insurer has sufficient financial reserves to underwrite additional coverage, whichever is later.

H. An accountable health plan as defined in section 20-2301 that offers conversion policies on an individual or group basis in connection with a health benefits plan pursuant to this title is not a health care insurer that offers individual health insurance coverage solely because of the offer of a conversion policy.

I. Nothing in this section:

1. Creates additional restrictions on the amount of the premium rates that a health care insurer may charge an individual for health insurance coverage provided in the individual market.

2. Prevents a health care insurer that offers health insurance coverage in the individual market from establishing premium rates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

3. Requires a health care insurer that offers only short-term limited duration insurance limited benefit coverage or to individuals and no other coverage to individuals in the individual market to offer individual health insurance coverage in the individual market.

4. Requires a health care insurer offering health care coverage only on a group basis or through one or more bona fide associations, or both, to offer health insurance coverage in the individual market.

J. A health care insurer shall provide, without charge, a written certificate of creditable coverage as described in this section for creditable coverage occurring after June 30, 1996 if the individual:

1. Ceases to be covered under a policy offered by a health care insurer. An individual who is covered by a policy that is issued on a group basis by a health care insurer, that is terminated or not renewed at the choice of the sponsor of the group and where the replacement of the coverage is without a break in coverage is not entitled to receive the certification prescribed in this paragraph but is instead entitled to receive the certification prescribed in paragraph 2 of this subsection.

2. Requests certification from the health care insurer within twenty-four months after the coverage under a health insurance coverage policy offered by a health care insurer ceases.

K. The certificate of creditable coverage provided by a health care insurer is a written certification of the period of creditable coverage of the individual under the health insurance coverage offered by the health care insurer. The department may enforce and monitor the issuance and delivery of the notices and certificates by health care insurers as required by this section, section 20-1380, the health insurance portability and accountability act of 1996 (P.L. 104-191; 110 Stat. 1936) and any federal regulations adopted to implement the health insurance portability and accountability act of 1996.

L. Any health care insurer, accountable health plan or other entity that issues health care coverage in this state, as applicable, shall issue and accept a certificate of creditable coverage of the individual that contains at least the following information:

1. The date that the certificate is issued.

2. The name of the individual or dependent for whom the certificate applies and any other information that is necessary to allow the issuer providing the coverage specified in the certificate to identify the individual, including the individual's identification number under the policy and the name of the policyholder if the certificate is for or includes a dependent.

3. The name, address and telephone number of the issuer providing the certificate.

4. The telephone number to call for further information regarding the certificate.

5. One of the following:

(a) A statement that the individual has at least eighteen months of creditable coverage. For purposes of this subdivision, eighteen months means five hundred forty-six days.

(b) Both the date that the individual first sought coverage, as evidenced by a substantially complete application, and the date that creditable coverage began.

6. The date creditable coverage ended, unless the certificate indicates that creditable coverage is continuing from the date of the certificate.

7. The consumer assistance telephone number for the department.

8. The following statement in at least fourteen point type:

Important Notice!

Keep this certificate with your important personal records to protect your rights under the health insurance portability and accountability act of 1996 ("HIPAA"). This certificate is proof of your prior health insurance coverage. You may need to show this certificate to have a guaranteed right to buy new health insurance ("Guaranteed issue"). This certificate may also help you avoid waiting periods or exclusions for preexisting conditions. Under HIPAA, these rights are guaranteed only for a very short time period. After your group coverage ends, you must apply for new coverage within 63 days to be protected by HIPAA. If you have questions, call the Arizona department of insurance.

M. A health care insurer has satisfied the certification requirement under this section if the insurer offering the health benefits plan provides the certificate of creditable coverage in accordance with this section within thirty days after the event that triggered the issuance of the certificate.

N. Periods of creditable coverage for an individual are established by the presentation of the certificate described in this section and section 20-2310. In addition to the written certificate of creditable coverage as described in this section, individuals may establish creditable coverage through the presentation of documents or other means. In order to make a determination that is based on the relevant facts and circumstances of the amount of creditable coverage that an individual has, a health care insurer shall take into account all information that the insurer obtains or that is presented to the insurer on behalf of the individual.

O. A health care insurer shall calculate creditable coverage according to the following rules:

1. The health care insurer shall allow an individual credit for each day the individual was covered by creditable coverage.

2. The health care insurer shall not count a period of creditable coverage for an individual enrolled under any form of health insurance coverage if after the period of coverage and before the enrollment date there were sixty-three consecutive days during which the individual was not covered by any creditable coverage.

3. The health care insurer shall not include any period that an individual is in a waiting period or an affiliation period for any health coverage or is awaiting action by a health care insurer on an application for the issuance of health insurance coverage when the health care insurer determines the continuous period pursuant to paragraph 1 of this subsection.

4. The health care insurer shall not include any period that an individual is waiting for approval of an application for health care coverage, provided the individual submitted an application to the health care

insurer for health care coverage within sixty-three consecutive days after the individual's most recent creditable coverage.

5. The health care insurer shall not count a period of creditable coverage with respect to enrollment of an individual, if, after the most recent period of creditable coverage and before the enrollment date, sixty-three consecutive days lapse during all of which the individual was not covered under any creditable coverage. The health care insurer shall not include in the determination of the period of continuous coverage described in this section any period that an individual is in a waiting period for health insurance coverage offered by a health care insurer, is in a waiting period for benefits under a health benefits plan offered by an accountable health plan or is in an affiliation period.

6. In determining the extent to which an individual has satisfied any portion of any applicable preexisting condition period the health care insurer shall count a period of creditable coverage without regard to the specific benefits covered during that period.

P. An individual is an eligible individual if, on the date the individual seeks coverage pursuant to this section, the individual has an aggregate period of creditable coverage as defined and calculated pursuant to this section of at least eighteen months and all of the following apply:

1. The most recent creditable coverage for the individual was under a plan offered by:

(a) An employee welfare benefit plan that provides medical care to employees or the employees' dependents directly or through insurance, reimbursement or otherwise pursuant to the employee retirement income security act of 1974 (P.L. 93-406; 88 Stat. 829; 29 United States Code sections 1001 through 1461).

(b) A church plan as defined in the employee retirement income security act of 1974.

(c) A governmental plan as defined in the employee retirement income security act of 1974, including a plan established or maintained for its employees by the government of the United States or by any agency or instrumentality of the United States.

(d) An accountable health plan as defined in section 20-2301.

(e) A plan made available to a person defined as eligible pursuant to section 36-2901, paragraph ~~4~~ 6, subdivision ~~(f)~~ (d) or a dependent pursuant to section 36-2901, paragraph ~~4~~ 6, subdivision ~~(g)~~ (e) of a person eligible under section 36-2901, paragraph ~~4~~ 6, subdivision ~~(f)~~ (d), provided the person was most recently employed by a business in this state with at least two but not more than fifty full-time employees.

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2. The individual is not eligible for coverage under:

(a) An employee welfare benefit plan that provides medical care to employees or the employees' dependents directly or through insurance, reimbursement or otherwise pursuant to the employee retirement income security act of 1974.

(b) A health benefits plan issued by an accountable health plan as defined in section 20-2301.

(c) Part A or part B of title XVIII of the social security act.

(d) Title 36, chapter 29, except coverage to persons defined as eligible under section 36-2901, paragraph ~~4~~ 6, subdivisions ~~(d), (e), (f) and (g)~~ (b), (c), (d) AND (e), or any other plan established under title XIX of the social security act, and the individual does not have other health insurance coverage.

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3. The most recent coverage within the coverage period was not terminated based on any factor described in section 20-2309, subsection B, paragraph 1 or 2 relating to nonpayment of premiums or fraud.

4. The individual was offered and elected the option of continuation coverage under a COBRA continuation provision pursuant to the consolidated omnibus budget reconciliation act of 1985 (P.L. 99-272; 100 Stat. 82) or a similar state program.

5. The individual exhausted the continuation coverage pursuant to the consolidated omnibus budget reconciliation act of 1985.

Q. Notwithstanding subsection P of this section, a newborn child, adopted child or child placed for adoption is an eligible individual if the child was timely enrolled and otherwise would have met the definition of an eligible individual as prescribed in this section other than the required period of creditable coverage and the child is not subject to any preexisting condition exclusion or limitation if the child has been continuously covered under health insurance coverage or a health benefits plan offered by an accountable health plan since birth, adoption or placement for adoption.

R. If a health care insurer imposes a waiting period for coverage of preexisting conditions, within a reasonable period of time after receiving an individual's proof of creditable coverage and not later than the date by which the individual must select an insurance plan, the health care insurer shall give the individual written disclosure of the insurer's determination regarding any preexisting condition exclusion period that applies to that individual. The disclosure shall include all of the following information:

1. The period of creditable coverage allowed toward the waiting period for coverage of preexisting conditions.

2. The basis for the insurer's determination and the source and substance of any information on which the insurer has relied.

3. A statement of any right the individual may have to present additional evidence of creditable coverage and to appeal the insurer's determination, including an explanation of any procedures for submission and appeal.

S. This section and section 20-1380 apply to all health insurance coverage that is offered, sold, issued, renewed, in effect or operated in the individual market after June 30, 1997, regardless of when a period of creditable coverage occurs.

T. For the purposes of this section and section 20-1380 as applicable:

1. "Affiliation period" has the same meaning prescribed in section 20-2301.

2. "Bona fide association" means, for health care coverage issued by a health care insurer, an association that meets the requirements of section 20-2324.

3. "Creditable coverage" means coverage solely for an individual, other than limited benefits coverage, under any of the following:

(a) An employee welfare benefit plan that provides medical care to employees or the employees' dependents directly or through insurance, reimbursement or otherwise pursuant to the employee retirement income security act of 1974.

(b) A church plan as defined in the employee retirement income security act of 1974.

(c) A health benefits plan issued by an accountable health plan as defined in section 20-2301.

(d) Part A or part B of title XVIII of the social security act.

(e) Title XIX of the social security act, other than coverage consisting solely of benefits under section 1928.

(f) Title 10, chapter 55 of the United States Code.

(g) A medical care program of the Indian health service or of a tribal organization.

(h) A health benefits risk pool operated by any state of the United States.

(i) A health plan offered pursuant to title 5, chapter 89 of the United States Code.

(j) A public health plan as defined by federal law.

(k) A health benefit plan pursuant to section 5(e) of the peace corps act (P.L. 87-293; 75 Stat. 612; 22 United States Code sections 2501 through 2523).

(l) A policy or contract, including short-term limited duration insurance, issued on an individual basis by an insurer, a health care services organization, a hospital service corporation, a medical service corporation or a hospital, medical, dental and optometric service corporation or made available to persons defined as eligible under section 36-2901, paragraph ~~4~~ 6, subdivision ~~(d), (e), (f) or (g)~~ (b), (c), (d) OR (e).

(m) A policy or contract issued by a health care insurer or an accountable health plan to a member of a bona fide association.

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4. "Different policy forms" means variations between policy forms offered by a health care insurer, including policy forms ~~which~~ THAT have different cost sharing arrangements or different riders.

5. "Genetic information" means information about genes, gene products and inherited characteristics that may derive from the individual or a family member, including information regarding carrier status and information derived from laboratory tests that identify mutations in specific genes or chromosomes, physical medical examinations, family histories and direct analysis of genes or chromosomes.

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6. "Health care insurer" means a disability insurer, group disability insurer, blanket disability insurer, ~~benefit insurer,~~ health care services organization, hospital service corporation, medical service corporation or a hospital, medical, dental and optometric service corporation.

7. "Health status-related factor" means any factor in relation to the health of the individual or a dependent of the individual enrolled or to be enrolled in a health care services organization including:

(a) Health status.

(b) Medical condition, including physical and mental illness.

(c) Claims experience.

(d) Receipt of health care.

(e) Medical history.

(f) Genetic information.

(g) Evidence of insurability, including conditions arising out of acts of domestic violence as defined in section 20-448.

(h) The existence of a physical or mental disability.

8. "Higher level of coverage" means a policy form for which the actuarial value of the benefits under the health insurance coverage offered by a health care insurer is at least fifteen per cent more than the actuarial value of the health insurance coverage offered by the health care insurer as a lower level of coverage in this state but not more than one hundred twenty per cent of a policy form weighted average.

9. "Individual health insurance coverage" means health insurance coverage offered by a health care insurer to individuals in the individual market but does not include limited benefit coverage or short-term limited duration insurance. A health care insurer that offers limited benefit coverage or short-term limited duration insurance to individuals and no other coverage to individuals in the individual market is not a health care insurer that offers health insurance coverage in the individual market.

10. "Limited benefit coverage" has the same meaning prescribed in section 20-1137.

11. "Lower level of coverage" means a policy form offered by a health care insurer for which the actuarial value of the benefits under the health insurance coverage is at least eighty-five per cent but not more than one hundred per cent of the policy form weighted average.

12. "Network plan" means a health care plan provided by a health care insurer under which the financing and delivery of health care services are provided, in whole or in part, through a defined set of providers under contract with the health care insurer in accordance with the determination made by the director pursuant to section 20-1053 regarding the geographic or service area in which a health care insurer may operate.

13. "Policy form weighted average" means the average actuarial value of the benefits provided by a health care insurer that issues health coverage in this state that is provided by either the health care insurer or, if the data are available, by all health care insurers that issue health coverage in this state in the individual health coverage market during the previous calendar year, except coverage pursuant to this section, weighted by the enrollment for all coverage forms.

14. "Preexisting condition" means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within not more than six months before the date of the enrollment of the individual under the health insurance policy or other contract that provides health coverage benefits. A genetic condition is not a preexisting condition in the absence of a diagnosis of the condition related to the genetic information and shall not result in a preexisting condition limitation or preexisting condition exclusion.

15. "Preexisting condition limitation" or "preexisting condition exclusion" means a limitation or exclusion of benefits for a preexisting

condition under a health insurance policy or other contract that provides health coverage benefits.

16. "Short-term limited duration insurance" means health insurance coverage that is offered by a health care insurer, that remains in effect for no more than one hundred eighty-five days, that cannot be renewed or otherwise continued for more than one hundred eighty days and that is not intended or marketed as health insurance coverage subject to guaranteed issuance or guaranteed renewal provisions of the laws of this state but that is creditable coverage within the meaning of this section and section 20-2301.

EXPLANATION OF BLEND
SECTION 25-503

Laws 2001, Chapters 81 and 264

Laws 2001, Ch. 81, section 3 — Effective August 9

Laws 2001, Ch. 264, section 1 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 81 and Ch. 264 text changes to section 25-503 are blended in the form shown on the following pages.

The Laws 2001, Ch. 81 version of section 25-503 had the stricken words and new words in a different order in subsection F than the Ch. 264 version. Since this would not produce a substantive change, the blend version reflects the Ch. 81 version.

BLEND OF SECTION 25-503
Laws 2001, Chapters 81 and 264

25-503. Order for support; methods of payment; modification; revocation; statute of limitations; judgment on arrearages; notice; security

A. In any proceeding in which there is at issue the support of a child, the court may order either or both parents to pay any amount necessary for the support of the child. If a personal check for support payments and handling fees is rightfully dishonored by the payor bank or other drawee, any subsequent support payments and handling fees shall be paid only by cash, money order, cashier's check, traveler's check or certified check. THE DEPARTMENT MAY COLLECT FROM THE DRAWER OF A DISHONORED CHECK OR DRAFT AN AMOUNT ALLOWED PURSUANT TO SECTION 44-6852. PURSUANT TO SECTIONS 35-146 AND 35-147, THE DEPARTMENT SHALL DEPOSIT MONIES COLLECTED PURSUANT TO THIS SUBSECTION IN A CHILD SUPPORT ENFORCEMENT ADMINISTRATION FUND. If a [~~person~~ PARTY] required to pay support other than by personal check demonstrates full and timely payment for twenty-four consecutive months, that [~~person~~ PARTY] ~~shall be permitted to~~ MAY pay support by personal check ~~as long as such~~ IF THESE payments are for the full amount, are timely tendered and are not rightfully dishonored by the payor bank or other drawee. On a showing of good cause, the court may order that the ~~parent or parents~~ PARTY OR PARTIES required to ~~make payments of~~ PAY support give reasonable security for these payments. If the court sets an appearance bond and the obligor fails to appear, the bond [~~shall be~~ IS] forfeited and credited against any support owed by the ~~person~~ PARTY required to pay support. This subsection does not apply to payments that are made by means of a wage assignment.

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B. On a showing that an income withholding order has been ineffective to secure the timely payment of support and that an amount equal to six months of current support has accrued, the court shall require the obligor to give security, post bond or give some other guarantee to secure overdue support.

C. In title IV-D cases, and in all other cases subject to an income withholding order issued on or after January 1, 1994, after notice to the ~~custodial parent~~ PARTY ENTITLED TO RECEIVE SUPPORT, the department or its agent may direct the ~~person~~ PARTY obligated to pay support or other payor to make payment to the support payment clearinghouse. The department or its agent shall provide notice by first class mail.

D. The obligation for current child support shall be fully met before any payments under an order of assignment may be applied to the payment of arrearages. If a ~~person~~ PARTY is obligated to pay support for more than one family and the amount available is not sufficient to meet the total combined current support obligation, any monies shall be allocated to each family ~~or~~ payor as follows:

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1. The amount of current support ordered in each case shall be added to obtain the total support obligation.

2. The ordered amount in each case shall be divided by the total support obligation to obtain a percentage of the total amount due.

3. The amount available from the obligor's income shall be multiplied by the percentage under paragraph 2 of this subsection to obtain the amount to be allocated to each family.

E. ~~In a case where the court has ordered that support be paid directly to the custodial parent,~~ If ~~the~~ A payment is not received within ten days [~~of~~ AFTER] the date in the court order for payment of support THAT IS TO BE PAID DIRECTLY TO THE PARTY ENTITLED TO RECEIVE SUPPORT, the ~~person receiving~~ support ORDER may ~~enforce the support order~~ BE ENFORCED by all civil remedies provided by law.

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F. Any order for child support may be modified or revoked ~~upon~~ ON a showing of changed circumstance ~~which~~ THAT is substantial and continuing, except as to any amount that may have accrued as an arrearage ~~prior to~~ BEFORE the date of the filing of the notice of the motion or order to show cause to modify or revoke. The addition of health insurance coverage as defined in section 25-531 or a change in the availability of health insurance coverage may constitute a continuing and substantial change in circumstance. The order of modification or revocation may be made retroactive to the date of the filing of the notice of motion or order to show cause to modify or to revoke or to any date ~~subsequent to~~ [~~such~~] AFTER [THE] filing. The order of modification or revocation may include an award of attorney fees and court costs to the prevailing party.

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G. Notwithstanding subsection F of this section, in a title IV-D case a party, or the department or its agent if there is an assignment of rights under section 46-407, may request every three years that an order for child support be reviewed and, if appropriate, adjusted. The request may be made without a specific showing of a changed circumstance that is substantial and continuing. The department or its agent shall conduct the review in accordance with the child support guidelines of this state. If appropriate, the department shall file a petition in the superior court to adjust the support amount. Every three years the department or its agent shall notify the parties of their right to request a review of the order for support. The department or its agent shall notify the parties by first class mail at their last known address or by including the notice in an order.

H. If a party in a title IV-D case requests a review and adjustment sooner than three years, the party shall demonstrate a changed circumstance that is substantial and continuing.

I. The right of a ~~parent, guardian or custodian~~ PARTY ENTITLED TO RECEIVE SUPPORT or the department to receive child support payments as provided in the court order vests as each installment falls due. Each vested child support installment is enforceable as a final judgment by operation of law. Unless it is reduced to a written money judgment, an unpaid child support judgment that became a judgment by operation of law expires three years after the emancipation of the last remaining unemancipated child who was included in the court order. Beginning on January 1, 2000, child support orders, including modified orders, must notify the parties of this expiration date. The filing of a request for a written money judgment before the end of that period preserves the right to judgment until the court grants a

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judgment or the court denies the request. A request does not need to be filed within three years if:

1. The court later determines that the actions or conduct of an obligor impeded the establishment of a written money judgment, including avoiding service or notice of that action, changing a name or social security number or leaving the state where the last support order was entered without notifying the ~~parent, guardian or custodian~~ PARTY to whom support is ordered to be paid or the court or the department of that ~~person's~~ PARTY'S residential and mailing addresses.

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2. The court later finds that the obligor threatened, defrauded or wrongfully coerced the obligee into not filing a request to reduce any support arrearages to a written money judgment.

J. The department or its agent or a ~~parent, guardian or custodian~~ PARTY ENTITLED TO RECEIVE SUPPORT may file a request for judgment for support arrearages not later than three years after the emancipation of all of the children who were the subject of the court order. In such a proceeding there

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is no bar to ~~the establishment of~~ ESTABLISHING a money judgment for all of the unpaid child support arrearages for all of the children who were the subject of the court order. Notwithstanding any other law, formal written judgments for support and for associated costs and attorney fees are exempt from renewal and are enforceable until paid in full. If emancipation is disputed, this subsection shall be liberally construed to effect its intention of diminishing the limitation on the collection of child support arrearages.

K. If the department or its agent or a ~~person~~ PARTY entitled to receive child support or spousal maintenance if the spousal maintenance is combined with a child support order has not received court ordered payments, the department or its agent or a ~~person~~ PARTY may file with the clerk of the superior court A REQUEST FOR JUDGMENT OF ARREARAGES AND an affidavit indicating the name of the ~~person~~ PARTY obligated to pay support and the amount of the arrearages. ~~The department or its agent or a person filing the affidavit shall provide notice to the person obligated to pay support, pursuant to the Arizona rules of civil procedure or by certified mail, return receipt requested, of the provisions of this section, including the person's right to request a hearing within twenty days, and that an affidavit of~~

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~~arrearages has been filed with the clerk of the superior court for purposes of obtaining a judgment against the person and shall attach a copy of the affidavit. The department or its agent or a person shall provide the clerk with proof of service of the notice or a notice of mailing stating that the notice required by this subsection was sent to the person obligated to pay support, the name of the person to whom the notice was sent, the date of mailing to the person and the date of receipt by the person and shall attach the copy of the return receipt. Within twenty days after receipt of the notice, the person alleged to be in arrears may request a hearing in the superior court if the arrearage amount or identity of the person is in dispute. The court shall hold the hearing within ten days after receiving the request. If the person alleged to be in arrears fails to request a hearing within the time provided, or if the court finds that the objection is unfounded, the court shall review the affidavit and grant an appropriate~~

~~judgment against the person obligated to pay support.~~ THE REQUEST MUST INCLUDE NOTICE OF THE REQUIREMENTS OF THIS SECTION AND THE RIGHT TO REQUEST A HEARING WITHIN TWENTY DAYS AFTER SERVICE IN THIS STATE OR WITHIN THIRTY DAYS AFTER SERVICE OUTSIDE THIS STATE. THE REQUEST, AFFIDAVIT AND NOTICE MUST BE SERVED PURSUANT TO THE ARIZONA RULES OF CIVIL PROCEDURE ON ALL PARTIES INCLUDING THE DEPARTMENT OR ITS AGENTS IN TITLE IV-D CASES. IN A TITLE IV-D CASE, THE DEPARTMENT OR ITS AGENT MAY SERVE ALL PARTIES BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED. WITHIN TWENTY DAYS AFTER SERVICE IN THIS STATE OR WITHIN THIRTY DAYS AFTER SERVICE OUTSIDE THIS STATE, A PARTY MAY FILE A REQUEST FOR A HEARING IF THE ARREARAGE AMOUNT OR THE IDENTITY OF THE PERSON IS IN DISPUTE. IF A HEARING IS NOT REQUESTED WITHIN THE TIME PROVIDED, OR IF THE COURT FINDS THAT THE OBJECTION IS UNFOUNDED, THE COURT MUST REVIEW THE AFFIDAVIT AND GRANT AN APPROPRIATE JUDGMENT AGAINST THE PARTY OBLIGATED TO PAY SUPPORT.

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L. If the clerk or support payment clearinghouse is unable to deliver payments for a period of three months due to the failure of ~~the person~~ A PARTY to whom the support has been ordered to be paid to notify the clerk or support payment clearinghouse of a change in address, the clerk or support payment clearinghouse shall return the payments to the obligor.

M. For the purposes of subsections I and J of this section, a child is emancipated:

1. On the date of the child's marriage.
2. On the child's eighteenth birthday.
3. When the child is adopted.
4. When the child dies.
5. On the termination of the support obligation if support is extended beyond the age of majority pursuant to section 25-501, subsection A or section 25-320, subsections B and C.

EXPLANATION OF BLEND
SECTION 28-363

Laws 2001, Chapters 231 and 371

Laws 2001, Ch. 231, section 4 — Effective August 9

Laws 2001, Ch. 371, section 2 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 231 and Ch. 371 text changes to section 28-363 are blended in the form shown on the following pages.

BLEND OF SECTION 28-363
Laws 2001, Chapters 231 and 371

28-363. Duties of the director; administration

A. The director shall:

1. Supervise and administer the overall activities of the department and its divisions and employees.

2. Appoint assistant directors for each of the divisions.

3. Provide for the assembly and distribution of information to the public concerning department activities.

4. Delegate functions, duties or powers as the director deems necessary to carry out the efficient operation of the department.

5. Exercise complete and exclusive operational control and jurisdiction over the use of state highways and routes.

6. Coordinate the design, right-of-way purchase and construction of controlled access highways that are either state routes or state highways and related grade separations of controlled access highways.

7. Coordinate the design, right-of-way purchase, construction, standard and reduced clearance grade separation, extension and widening of arterial streets and highways under chapters 17 and 18 of this title.

8. Assist counties, cities and towns in the development of their regional transportation plans under chapters 17 and 18 of this title to ensure that the streets and highways within each county form a regional system.

9. On or before December 1 present an annual report to the speaker of the house of representatives and the president of the senate documenting the expenditures of monies under chapters 17 and 18 of this title during the previous fiscal year relating to the design, right-of-way purchase or construction of controlled access highways that are accepted in the state highway system as state routes or state highways or related grade separations of controlled access highways that are included in the regional transportation plans of the counties.

10. Designate the necessary agencies for enforcing the provisions of the laws the director administers or enforces.

11. Exercise other duties or powers as the director deems necessary to carry out the efficient operation of the department.

Ch. 231 — 12. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data AND CONDUCT PROJECTS IN THE UNITED STATES AND MEXICO on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess AND ENHANCE the economic competitiveness of this state and of the ~~state of Sonora, Mexico~~ ARIZONA-MEXICO REGION.

Ch. 371 — 13. DEVELOP A PLAN TO INCREASE USE OF BYPASS ROUTES BY VEHICLES ON DAYS OF POOR VISIBILITY IN THE PHOENIX METROPOLITAN AREA.

B. The assistant directors appointed pursuant to subsection A are exempt from the state personnel system.

C. The director shall not spend any monies, adopt any rules or implement any policies or programs to convert signs to the metric system or to require the use of the metric system with respect to designing or preparing plans, specifications, estimates or other documents for any highway project before the conversion or use is required by federal law, except that the director may:

1. Spend monies and require the use of the metric system with respect to designing or preparing plans, specifications, estimates or other documents for a highway project that is awarded before October 1, 1997, and that is exclusively metric from its inception.

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2. Prepare for conversion to and use of the metric system not more than six months before the conversion or use is required by federal law.

EXPLANATION OF BLEND
SECTION 28-448

Laws 2001, Chapters 325 and 377

Laws 2001, Ch. 325, section 1 — Effective August 9

Laws 2001, Ch. 377, section 2 — Effective August 9

Explanation

Since these two enactments are identical, the Laws 2001, Ch. 325 and Ch. 377 text changes to section 28-448 are blended in the form shown on the following page.

BLEND OF SECTION 28-448
Laws 2001, Chapters 325 and 377

28-448. Notice of address or name change; address update; civil traffic violation

A. If a person's name or address changes after the person applies for or receives a driver license or nonoperating identification license or after the person applies for or receives a vehicle registration or vehicle title, the person shall notify the department within ten days after the change of the old and new address or the former and new name and the following:

1. If a registration or title is applied for or received, the number of vehicles registered to the person and the vehicle identification numbers of the vehicles.

2. If a driver license or nonoperating identification license is applied for or received, the person's date of birth and the number of each license held by the person or a statement that each license is suspended, revoked or canceled.

B. A person may notify the department of an address change by telephone, in writing, in person or by approved electronic means AND OF A NAME CHANGE IN PERSON OR IN WRITING.

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C. The department may update an address in a vehicle registration record or driver license record if a traffic citation received by the department or records of another consenting government agency indicate an address change after the date the address was stated in department records.

D. A violation of this section is a civil traffic violation.

EXPLANATION OF BLEND
SECTION 28-737

Laws 2001, Chapters 168 and 337

Laws 2001, Ch. 168, section 1 — Effective August 9

Laws 2001, Ch. 337, section 4 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 168 and Ch. 337 text changes to section 28-737 are blended in the form shown on the following pages.

The Laws 2001, Ch. 168 version made a technical change in old subsection D. The Ch. 337 version deleted old subsection D. Since this would not produce a substantive change, the blend reflects the Ch. 337 version.

BLEND OF SECTION 28-737
Laws 2001, Chapters 168 and 337

28-737. High occupancy vehicle lanes; civil penalty; fund; definition

Ch. 168 A. Except as provided in section 28-2416 AND SUBSECTION B OF THIS SECTION [AND SUBSECTION C OF THIS SECTION], a person shall not drive a vehicle carrying fewer than two persons, including the driver, in a high occupancy vehicle lane at any time the use of the high occupancy vehicle lane is restricted to vehicles carrying two or more persons, including the driver.

Ch. 168 B. IF THE DEPARTMENT RECEIVES APPROVAL FROM THE FEDERAL GOVERNMENT ALLOWING THE USE OF HIGH OCCUPANCY VEHICLE LANES BY HYBRID VEHICLES, A PERSON MAY DRIVE A HYBRID VEHICLE WITH ALTERNATIVE FUEL VEHICLE SPECIAL PLATES, OR AN ALTERNATIVE FUEL VEHICLE STICKER, AND A HYBRID VEHICLE STICKER ISSUED PURSUANT TO SECTION 28-2416 IN HIGH OCCUPANCY VEHICLE LANES AT ANY TIME, REGARDLESS OF OCCUPANCY LEVEL, WITHOUT PENALTY.

Ch. 337 C. DURING THE PERFORMANCE OF A TOW TRUCK OPERATOR'S DUTIES, A TOW TRUCK OPERATOR MAY DRIVE A TOW TRUCK IN A HIGH OCCUPANCY VEHICLE LANE, REGARDLESS OF OCCUPANCY LEVEL, WITHOUT PENALTY.

~~B.~~ D. A person who violates subsection A of this section is subject to a civil penalty of ~~three hundred fifty~~ TWO HUNDRED dollars.

Ch. 337 ~~C. The law enforcement alternative fuel vehicle fund is established. The director of the department of public safety shall administer the fund. Subject to legislative appropriation, the department of public safety shall use monies in the fund to pay the incremental cost as defined in section 43-1086 associated with the purchase of law enforcement alternative fuel vehicles. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.~~

~~D. Notwithstanding section 28-1554, the civil penalties collected pursuant to subsection B of this section shall be deposited as follows:~~

~~1. Two hundred fifty dollars in the law enforcement alternative fuel vehicle fund.~~

~~2.~~ E. NOTWITHSTANDING SECTION 28-1554, one hundred dollars OF EACH CIVIL PENALTY COLLECTED PURSUANT TO SUBSECTION D OF THIS SECTION SHALL BE DEPOSITED in the Arizona clean air fund established by section 41-1516 to provide grants to a regional planning agency in a county with a population of more than one million two hundred thousand persons for conversion of diesel fleets in the county to use alternative fuels or for acquisition of alternative fuel vehicles to replace diesel fleets in the county.

F. FOR THE PURPOSES OF THIS SECTION, "HYBRID VEHICLE" MEANS A FACTORY-MANUFACTURED VEHICLE THAT SATISFIES ALL OF THE FOLLOWING:

Ch. 168 1. COMBINES TWO OR MORE POWER TRAIN TECHNOLOGIES TO PRODUCE A VEHICLE WITH SIGNIFICANTLY LOWER FUEL CONSUMPTION THAN THE AVERAGE OF ITS CLASS.

2. EXHIBITS THE STORAGE OF KINETIC ENERGY BY USE OF REGENERATIVE BRAKING AND BATTERIES OR CAPACITORS, AND THE STORED ENERGY IS USED TO ASSIST OR PROVIDE FULL ACCELERATION OF THE VEHICLE.

3. ALLOWS A PORTION OF THE ENERGY TO BE SUPPLIED FROM AN INTERNAL COMBUSTION ENGINE OR FUEL CELL FOR VEHICLE ACCELERATION AND TO STORE ELECTRICAL ENERGY ON BOARD.

4. OBTAINS ALL ENERGY REQUIRED TO OPERATE FROM STORAGE FUEL TANKS PLACED ON BOARD THE VEHICLE.

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5. HAS BEEN APPROVED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AS MEETING, AT A MINIMUM, THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ULTRALOW EMISSION VEHICLE STANDARD PURSUANT TO 40 CODE OF FEDERAL REGULATIONS SECTION 88.104-94.

EXPLANATION OF BLEND
SECTION 28-1381

Laws 2001, Chapters 95 and 253

Laws 2001, Ch. 95, section 5 — Effective September 1

Laws 2001, Ch. 253, section 1 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 95 and Ch. 253 text changes to section 28-1381 are blended in the form shown on the following pages.

BLEND OF SECTION 28-1381
Laws 2001, Chapters 95 and 253

28-1381. Driving or actual physical control while under the influence; trial by jury; presumptions; admissible evidence; sentencing; classification

A. It is unlawful for a person to drive or be in actual physical control of a vehicle in this state under any of the following circumstances:

1. While under the influence of intoxicating liquor, any drug, a vapor releasing substance containing a toxic substance or any combination of liquor, drugs or vapor releasing substances if the person is impaired to the slightest degree.

Ch. 95 2. If the person has an alcohol concentration of ~~0.10~~ 0.08 or more within two hours of driving or being in actual physical control of the vehicle and the alcohol concentration results from alcohol consumed either before or while driving or being in actual physical control of the vehicle.

3. While there is any drug defined in section 13-3401 or its metabolite in the person's body.

4. If the vehicle is a commercial motor vehicle that requires a person to obtain a commercial driver license as defined in section 28-3001 and the person has an alcohol concentration of 0.04 or more.

B. It is not a defense to a charge of a violation of subsection A, paragraph 1 of this section that the person is or has been entitled to use the drug under the laws of this state.

C. A person who is convicted of a violation of this section is guilty of a class 1 misdemeanor.

D. A person using a drug prescribed by a medical practitioner licensed pursuant to title 32, chapter 7, 11, 13 or 17 is not guilty of violating subsection A, paragraph 3 of this section.

E. In any prosecution for a violation of this section, the state shall allege, for the purpose of classification and sentencing pursuant to this section, all prior convictions of violating this section, section 28-1382 or section 28-1383 occurring within the past thirty-six months, unless there is an insufficient legal or factual basis to do so.

F. At the arraignment, the court shall inform the defendant that the defendant may request a trial by jury and that the request, if made, shall be granted.

G. In a trial, action or proceeding for a violation of this section or section 28-1383 other than a trial, action or proceeding involving driving or being in actual physical control of a commercial vehicle, the defendant's alcohol concentration within two hours of the time of driving or being in actual physical control as shown by analysis of the defendant's blood, breath or other bodily substance gives rise to the following presumptions:

1. If there was at that time 0.05 or less alcohol concentration in the defendant's blood, breath or other bodily substance, it may be presumed that the defendant was not under the influence of intoxicating liquor.

2. If there was at that time in excess of 0.05 but less than ~~0.10~~ 0.08 alcohol concentration in the defendant's blood, breath or other bodily substance, that fact shall not give rise to a presumption that the defendant was or was not under the influence of intoxicating liquor, but that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant.

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3. If there was at that time ~~0.10~~ 0.08 or more alcohol concentration in the defendant's blood, breath or other bodily substance, it may be presumed that the defendant was under the influence of intoxicating liquor.

H. Subsection G of this section does not limit the introduction of any other competent evidence bearing on the question of whether or not the defendant was under the influence of intoxicating liquor.

I. A person who is convicted of a violation of this section:

1. Shall be sentenced to serve not less than ten consecutive days in jail and is not eligible for probation or suspension of execution of sentence unless the entire sentence is served.

2. Shall pay a fine of not less than two hundred fifty dollars.

3. May be ordered by a court to perform community service.

J. Notwithstanding subsection I, paragraph 1 of this section, at the time of sentencing the judge may suspend all but twenty-four consecutive hours of the sentence if the person completes a court ordered alcohol or other drug screening, education or treatment program. If the person fails to complete the court ordered alcohol or other drug screening, education or treatment program and has not been placed on probation, the court shall issue an order to show cause to the defendant as to why the remaining jail sentence should not be served.

K. If within a period of sixty months a person is convicted of a second violation of this section or is convicted of a violation of this section and has previously been convicted of a violation of section 28-1382 or 28-1383 or an act in another jurisdiction that if committed in this state would be a violation of this section or section 28-1382 or 28-1383, the person:

1. Shall be sentenced to serve not less than ninety days in jail, thirty days of which shall be served consecutively, and is not eligible for probation or suspension of execution of sentence unless the entire sentence has been served.

2. Shall pay a fine of not less than five hundred dollars.

3. May be ordered by a court to perform community service.

4. Shall have the person's driving privilege revoked for one year. The court shall report the conviction to the department. On receipt of the report, the department shall revoke the person's driving privilege and shall require the person to equip any motor vehicle the person operates with a certified ignition interlock device ~~for one year on the conclusion of the license suspension or revocation~~ PURSUANT TO SECTION 28-3319. In addition, the court may order the person to equip any motor vehicle the person operates with a certified ignition interlock device for more than ~~one year~~ TWELVE MONTHS BEGINNING on the conclusion of the license suspension or revocation OR ON THE DATE OF CONVICTION, WHICHEVER OCCURS LATER. The person who

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operates a motor vehicle with a certified ignition interlock device under this paragraph shall comply with article 5 of this chapter.

L. Notwithstanding subsection K, paragraph 1 of this section, at the time of sentencing, the judge may suspend all but thirty days of the sentence if the person completes a court ordered alcohol or other drug screening, education or treatment program. If the person fails to complete the court ordered alcohol or other drug screening, education or treatment program and has not been placed on probation, the court shall issue an order to show cause as to why the remaining jail sentence should not be served.

M. In applying the sixty month provision of subsection K of this section, the dates of the commission of the offense shall be the determining factor, irrespective of the sequence in which the offenses were committed.

N. A second violation for which a conviction occurs as provided in this section shall not include a conviction for an offense arising out of the same series of acts.

EXPLANATION OF BLEND
SECTION 28-2051

Laws 2001, Chapters 324 and 325

Laws 2001, Ch. 324, section 20 — Effective January 1, 2002
(as amended by Laws 2000, Ch. 343, section 10)

Laws 2001, Ch. 325, section 3 — Effective January 1, 2002
(as amended by Laws 2001, Ch. 325, section 2)

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 324 and Ch. 325 text changes to section 28-2051 are blended effective from and after December 31, 2001 in the form shown on the following pages.

BLEND OF SECTION 28-2051
Laws 2001, Chapters 324 and 325

28-2051. Application for certificate of title; vision screening test

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A. A person shall apply TO THE DEPARTMENT on a form prescribed or authorized by the department for a certificate of title to a motor vehicle, trailer or semitrailer ~~to the department~~. The person shall make the application within ~~thirty~~ FIFTEEN days of the purchase or transfer of the vehicle, trailer or semitrailer. The transferee shall sign the application.

B. The application shall contain:

1. The transferee's full name and either the driver license number of the transferee or a number assigned by the department.

2. The transferee's complete residence address.

3. A brief description of the vehicle to be titled.

4. The name of the manufacturer of the vehicle.

5. The serial number of the vehicle.

6. The last license plate number if applicable and if known and the state in which the license plate number was issued.

7. If the application is for a certificate of title to a new vehicle, the date of sale by the manufacturer or dealer to the person first operating the vehicle.

8. If the application is in the name of a lessor:

(a) The lessor shown on the application as the owner or transferee.

(b) At the option of the lessor, the lessee shown on the application as the registrant.

(c) The address of either the lessor or lessee.

(d) The signature of the lessor.

9. If the application is for a certificate of title to a specially constructed, reconstructed or foreign vehicle, a statement of that fact. For the purposes of this paragraph, "specially constructed vehicle" means a vehicle not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles.

10. If an applicant rents or intends to rent the vehicle without a driver, a statement of that fact.

11. Other information required by the department.

C. Unless subsection B, paragraph 8 of this section applies, on request of an applicant, the department shall allow the applicant to provide on the title of a motor vehicle, trailer or semitrailer a post office box address that is regularly used by the applicant.

D. A person shall submit the following information with an application for a certificate of title:

1. To a vehicle previously registered:

(a) The odometer mileage disclosure statement prescribed by section 28-2058.

(b) If the applicant is applying for title pursuant to section 28-2060, the applicant's statement of the odometer reading as of the date of application.

2. To a new vehicle:

(a) A certificate or electronic title from the manufacturer showing the date of sale to the dealer or person first receiving the vehicle from the manufacturer. Before the department issues a certificate of title to a new vehicle, a certificate or electronic title from the manufacturer shall be surrendered to the department.

(b) The name of the dealer or person.

(c) A description sufficient to identify the vehicle.

(d) A statement certifying that the vehicle was new when sold.

(e) If sold through a dealer, a statement by the dealer certifying that the vehicle was new when sold to the applicant.

E. The department may request an applicant who appears in person for a certificate of title of a motor vehicle, trailer or semitrailer to complete satisfactorily the vision screening test prescribed by the department.

EXPLANATION OF BLEND
SECTION 28-2416

Laws 2001, Chapters 168, 287 and 371

Laws 2001, Ch. 168, section 2	Effective August 9
Laws 2001, Ch. 287, section 5	Effective August 9
Laws 2001, Ch. 371, section 3	Effective August 9 (Retroactive to July 1, 2001)

Explanation

Since these three enactments are not incompatible, the Laws 2001, Ch. 168, Ch. 287 and Ch. 371 text changes to section 28-2416 are blended in the form shown on the following pages.

BLEND OF SECTION 28-2416
Laws 2001, Chapters 168, 287 and 371

28-2416. Alternative fuel vehicle special plates; stickers; use of high occupancy vehicle lanes; definition

A. Beginning on April 1, 1997, a person who owns a motor vehicle that has either been converted or manufactured to use an alternative fuel and the alternative fuel was subject to the use fuel tax imposed pursuant to chapter 16, ~~article 2~~ of this title before April 1, 1997 shall apply for alternative fuel vehicle special plates pursuant to this section. Ch. 287

B. A PERSON WHO OWNS A MOTOR VEHICLE THAT IS A HYBRID VEHICLE MAY APPLY FOR ALTERNATIVE FUEL VEHICLE SPECIAL PLATES PURSUANT TO THIS SECTION. THE DEPARTMENT SHALL ISSUE ALTERNATIVE FUEL VEHICLE SPECIAL PLATES, OR AN ALTERNATIVE FUEL VEHICLE STICKER AS PROVIDED IN SUBSECTION E OF THIS SECTION, AND A HYBRID VEHICLE STICKER TO A PERSON WHO SATISFIES THE REQUIREMENTS PRESCRIBED IN SUBSECTION C OF THIS SECTION. THE HYBRID VEHICLE STICKER SHALL BE DESIGNED BY THE DEPARTMENT AND SHALL BE PLACED ON THE MOTOR VEHICLE AS PRESCRIBED BY THE DEPARTMENT.

~~B.~~ C. The department shall issue alternative fuel vehicle special plates, or an alternative fuel vehicle sticker as provided in subsection ~~D~~ E of this section, to a person who satisfies all of the following: Ch. 168

1. Owns a motor vehicle that is powered by an alternative fuel OR THAT IS A HYBRID VEHICLE.

2. Provides proof as follows:

(a) For an original equipment manufactured alternative fuel vehicle OR HYBRID VEHICLE, the dealer who sells the motor vehicle shall provide to the department of transportation and the owner of the motor vehicle a certificate indicating:

(i) That the motor vehicle is powered by an alternative fuel OR IS A HYBRID VEHICLE.

(ii) The emission classification of the motor vehicle as low, inherently low, ultralow or zero.

(b) For a converted motor vehicle or a motor vehicle that is assembled by the owner, the department of environmental quality or an agent of the department of environmental quality shall provide a certificate to the department of transportation and the owner of the motor vehicle indicating that the motor vehicle is powered by an alternative fuel OR IS A HYBRID VEHICLE. Ch. 168

3. Pays an eight dollar special plate administrative fee, except that vehicles that are registered pursuant to section 28-2511 are exempt from that fee. The department shall deposit, pursuant to sections 35-146 and 35-147, all special plate administrative fees in the state highway fund established by section 28-6991.

~~C.~~ D. The color and design of the alternative fuel vehicle special plates are subject to the approval of the department of commerce energy office. The director may allow a request for alternative fuel vehicle special plates to be combined with a request for personalized special plates. If the director allows such a combination, the request shall be in a form prescribed by the director and is subject to the fees for the personalized

special plates in addition to the fees required for alternative fuel vehicle special plates. Alternative fuel vehicle special plates are not transferable, except that if the director allows alternative fuel vehicle special plates to be personalized a person who is issued personalized alternative fuel vehicle special plates may transfer those plates to another alternative fuel vehicle for which the person is the registered owner or lessee.

~~D.~~ E. If a motor vehicle qualifies pursuant to this section and any other special plates are issued pursuant to article 7, 8 or 13 of this chapter or section 28-2514 for the motor vehicle, the department may issue an alternative fuel vehicle sticker to the person who owns the motor vehicle. The ALTERNATIVE FUEL VEHICLE sticker shall be diamond-shaped, shall indicate the type of alternative fuel used by the vehicle and shall be placed on the motor vehicle as prescribed by the department.

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~~E.~~ F. EXCEPT AS PROVIDED IN SECTION 28-737, SUBSECTION B, a person may drive a motor vehicle with alternative fuel vehicle special plates or an alternative fuel vehicle sticker in high occupancy vehicle lanes at any time, regardless of occupancy level, without penalty.

~~F.~~ G. A person shall not drive a motor vehicle in a high occupancy vehicle lane with an alternative fuel vehicle sticker if the motor vehicle is not an alternative fuel vehicle OR A HYBRID VEHICLE FOR WHICH AN ALTERNATIVE FUEL VEHICLE STICKER AND A HYBRID VEHICLE STICKER HAVE BEEN ISSUED PURSUANT TO THIS SECTION. A person who violates this subsection is subject to a civil penalty of three hundred fifty dollars. Notwithstanding section 28-1554, the civil penalty collected pursuant to this subsection shall be deposited in the Arizona clean air fund established by section 41-1516 ~~to provide grants to a regional planning agency in a county with a population of more than one million two hundred thousand persons for conversion of diesel fleets in the county to use alternative fuels or for acquisition of alternative fuel vehicles to replace diesel fleets in the county~~.

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~~G.~~ H. The department shall mark high occupancy vehicle lane signs to indicate that those lanes may be used by alternative fuel vehicles regardless of the number of occupants. The design of the sign shall be the same as the design of the alternative fuel vehicle special plate, and the sign shall be at least as large as the high occupancy vehicle lane sign. These high occupancy vehicle lane signs are official traffic control devices. On highway exit signs the department shall also indicate access to alternative fuel vehicle fueling stations that are open to the public.

~~H. The costs of the high occupancy vehicle lane sign markings required by this section shall be paid from the monies in the Arizona clean air fund established by section 41-1516.~~

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I. If the department publishes maps of the state highway system that are distributed to the general public, the department shall indicate on those maps the approximate location of alternative fuel delivery facilities that are open to the public.

J. For the purposes of this section: ~~,~~

1. "Alternative fuel" has the same meaning prescribed in section 1-215.

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2. "HYBRID VEHICLE" HAS THE SAME MEANING PRESCRIBED IN SECTION 28-737.

EXPLANATION OF BLEND
SECTION 28-6991

Laws 2001, Chapters 154, 316 and 337

Laws 2001, Ch. 154, section 4	Effective September 1
Laws 2001, Ch. 316, section 2	Effective August 9
Laws 2001, Ch. 337, section 5	Effective August 9

Explanation

Since these three enactments are not incompatible, the Laws 2001, Ch. 154, Ch. 316 and Ch. 337 text changes to section 28-6991 are blended in the form shown on the following pages.

Section 28-6991 was amended an additional time by Laws 2001, Ch. 238 that will require separate publication in addition to this blend.

BLEND OF SECTION 28-6991
Laws 2001, Chapters 154, 316 and 337

28-6991. State highway fund; sources

A state highway fund is established that consists of:

1. Monies distributed from the Arizona highway user revenue fund pursuant to chapter 18 of this title.

2. Monies appropriated by the legislature.

3. Monies received from donations for the construction, improvement or maintenance of state highways or bridges. These monies shall be credited to a special account and shall be spent only for the purpose indicated by the donor.

4. Monies received from counties under cooperative agreements, including proceeds from bond issues. The state treasurer shall deposit these monies to the credit of the fund in a special account on delivery to the treasurer of a concise written agreement between the department and the county stating the purposes for which the monies are surrendered by the county, and these monies shall be spent only as stated in the agreement.

5. Monies received from the United States under an act of Congress to provide aid for the construction of rural post roads, but monies received on projects for which the monies necessary to be provided by this state are wholly derived from sources mentioned in paragraphs 2 and 3 of this section shall be allotted by the department and deposited by the state treasurer in the special account within the fund established for each project. On completion of the project, on the satisfaction and discharge in full of all obligations of any kind created and on request of the department, the treasurer shall transfer the unexpended balance in the special account for the project into the state highway fund, and the unexpended balance and any further federal aid thereafter received on account of the project may be spent under the general provisions of this title.

6. Monies in the custody of an officer or agent of this state from any source that is to be used for the construction, improvement or maintenance of state highways or bridges.

7. Monies deposited in the state general fund and arising from the disposal of state personal property belonging to the department.

8. Receipts from the sale or disposal of any or all other property held by the department and purchased with state highway monies.

9. Monies generated pursuant to section 28-410.

10. Monies distributed pursuant to section 28-5808, ~~subsection A, paragraph 2, subdivision (d) and~~ subsection B, paragraph 2, subdivision (d).

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Ch. 316 —

11. Monies deposited pursuant to sections 28-1143, ~~28-2010,~~ 28-2353 and 28-3003.

12. Except as provided in section 28-5101, the following monies:

(a) Monies deposited pursuant to section 28-2206 and section 28-5808, ~~subsection A, paragraph 2, subdivision (e) and~~ subsection B, paragraph 2, subdivision (e).

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(b) One dollar of each registration fee and one dollar of each title fee collected pursuant to section 28-2003.

(c) Two dollars of each late registration penalty collected by the director pursuant to section 28-2162.

(d) The air quality compliance fee collected pursuant to section 49-542.

(e) The special plate administration fees collected pursuant to sections 28-2404, 28-2412 through 28-2417 and 28-2514.

(f) The windshield sticker fee collected pursuant to section 28-2355.

(g) Monies collected pursuant to sections 28-372, 28-2155 and 28-2156 if the director is the registering officer.

13. Monies deposited pursuant to chapter 5, article 5 of this title.

14. Donations received pursuant to section 28-2269.

15. Dealer and registration monies collected pursuant to section 28-4304.

16. Abandoned vehicle administration monies deposited pursuant to section 28-4804.

Ch. 337 — 17. MONIES DEPOSITED PURSUANT TO SECTION 28-710, SUBSECTION D, PARAGRAPH 2.

EXPLANATION OF BLEND
SECTION 28-6993

Laws 2001, Chapters 238, 316 and 337

Laws 2001, Ch. 238, section 5	Effective August 9
Laws 2001, Ch. 316, section 3	Effective August 9
Laws 2001, Ch. 337, section 6	Effective August 9

Explanation

Since these three enactments are not incompatible, the Laws 2001, Ch. 238, Ch. 316 and Ch. 337 text changes to section 28-6993 are blended in the form shown on the following pages.

BLEND OF SECTION 28-6993
Laws 2001, Chapters 238, 316 and 337

28-6993. State highway fund; authorized uses

A. Except as provided in subsection B of this section and section 28-6538, the state highway fund shall be used for any of the following purposes in strict conformity with and subject to the budget as provided by this section and by sections 28-6997 through 28-7003:

1. To pay salaries, wages, necessary travel expenses and other expenses of officers and employees of the department and the incidental office expenses, including telegraph, telephone, postal and express charges and printing, stationery and advertising expenses.

2. To pay for both:

(a) Equipment, supplies, machines, tools, department offices and laboratories established by the department.

(b) The construction and repair of buildings or yards of the department.

3. To pay the cost of both:

(a) Engineering, construction, improvement and maintenance of state highways and parts of highways forming state routes.

(b) Highways under cooperative agreements with the United States that are entered into pursuant to this chapter and an act of Congress providing for the construction of rural post roads.

4. To pay land damages incurred by reason of establishing, opening, altering, relocating, widening or abandoning portions of a state route or state highway.

5. To reimburse the department revolving account.

6. To pay premiums on authorized indemnity bonds and on compensation insurance under the workers' compensation act.

7. To defray lawful expenses and costs required to administer and carry out the intent, purposes and provisions of this title, including repayment of obligations entered into pursuant to this title, payment of interest on obligations entered into pursuant to this title, repayment of loans and other financial assistance, including repayment of advances and interest on advances made to the department pursuant to section 28-7677, and payment of all other obligations and expenses of the board and department pursuant to chapter 21 of this title.

8. To pay lawful bills and charges incurred by the state engineer.

9. To acquire, construct or improve entry roads to state parks or roads within state parks.

10. To acquire, construct or improve entry roads to state prisons.

11. To pay the cost of relocating a utility facility pursuant to section 28-7156.

12. For the purposes provided in subsections C, D and E of this section and sections 28-1143, ~~28-2010,~~ 28-2353 and 28-3003.

B. For each fiscal year, the department of transportation shall allocate and transfer monies in the state highway fund to the department of public safety for funding a portion of highway patrol costs in eight installments in each of the first eight months of a fiscal year that do not exceed ten million dollars.

C. Subject to legislative appropriation, the department may use the monies in the state highway fund as prescribed in section 28-6991, SUBSECTION A, paragraph 12 to carry out the duties imposed by this title for registration or titling of vehicles, to operate joint title, registration and driver licensing offices, to cover the administrative costs of issuing the air quality compliance sticker, modifying the year validating tab and issuing the windshield sticker and to cover expenses and costs in issuing special plates pursuant to sections 28-2404, 28-2412 through 28-2417 and 28-2514.

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D. The department shall use monies deposited in the state highway fund pursuant to chapter 5, article 5 of this title only as prescribed by that article.

E. Monies deposited in the state highway fund pursuant to section 28-2269 shall be used only as prescribed by that section.

F. MONIES DEPOSITED IN THE STATE HIGHWAY FUND PURSUANT TO SECTION 28-710, SUBSECTION D, PARAGRAPH 2 SHALL ONLY BE USED FOR STATE HIGHWAY WORK ZONE TRAFFIC CONTROL DEVICES.

Ch. 337

~~F.~~ G. The department may exchange monies distributed to the state highway fund pursuant to section 28-6538, subsection A, paragraph 1 for local government surface transportation program federal monies suballocated to councils of government and metropolitan planning organizations if the local government scheduled to receive the federal monies concurs. An exchange of state highway fund monies pursuant to this subsection shall be in an amount that is at least equal to ninety per cent of the federal obligation authority that exists in the project for which the exchange is proposed.

EXPLANATION OF BLEND
SECTION 28-8202

Laws 2001, Chapters 117 and 286

Laws 2001, Ch. 117, section 15	Effective August 9
Laws 2001, Ch. 286, section 1	Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 117 and Ch. 286 text changes to section 28-8202 are blended in the form shown on the following page.

BLEND OF SECTION 28-8202
Laws 2001, Chapters 117 and 286

28-8202. State aviation fund; report

A. A state aviation fund is established consisting of the following:

1. Aviation fuel taxes or motor vehicle fuel taxes deposited by the department.

2. Monies deposited by the department as a result of the sale of an abandoned aircraft as defined in section 28-8243 or seized aircraft.

3. The amount of flight property tax that the department of revenue has deposited pursuant to section 42-14255.

4. Registration fees, license taxes and penalties collected pursuant to article 4 of this chapter.

5. Monies received by the department from the operation of airports under this article and articles 2 through 5 of this chapter.

B. On notice from the department, the state treasurer shall invest and divest monies in the state aviation fund as provided by section ~~28-6546~~ 35-313, and monies earned from investment shall be credited to the fund. (Ch. 117)

C. The department shall administer monies that are appropriated by the legislature from the state aviation fund.

D. The board shall distribute monies appropriated to the department from the state aviation fund for planning, design, development, acquisition of interests in land, construction and improvement of publicly owned and operated airport facilities in counties and incorporated cities and towns. The board shall distribute these monies according to the needs for these facilities as determined by the board. NO MORE THAN TEN PER CENT OF THE TOTAL AVIATION FUND MAY BE AWARDED TO ANY ONE AIRPORT IN ANY FISCAL YEAR. (Ch. 286) For purposes of this subsection, "publicly owned and operated airport facility" means an airport and appurtenant facilities in which one or more agencies, departments or instrumentalities of this state or a city, town or county of this state holds an interest in the land on which the airport is located that is clear of any reversionary interest, lien, easement, lease or other encumbrance that might preclude or interfere with the possession, use or control of the land for public airport purposes for a minimum period of twenty years.

EXPLANATION OF BLEND
SECTION 32-128 (as amended by Laws 2000, Ch. 86, section 10, Ch. 113, section 76 and Ch. 124, section 5)

Laws 2001, Chapters 196 and 324

Laws 2001, Ch. 196, section 4	Effective August 9
Laws 2001, Ch. 324, section 23	Effective August 9 (Retroactive to July 18, 2000)

Explanation

Since the Ch. 196 version includes all of the changes made by the Ch. 324 version, the Laws 2001, Ch. 196 amendment of section 32-128 is the blend of both the Laws 2001, Ch. 196 and Ch. 324 versions.

BLEND OF SECTION 32-128 (as amended by Laws 2000, Ch. 86, section 10, Ch. 113, section 76 and Ch. 124, section 5)
Laws 2001, Chapters 196 and 324

32-128. Disciplinary action; letter of concern; judicial review

A. The board may take the following disciplinary actions, in combination or alternatively:

1. Revocation of a certification or registration.

2. Suspension of a certification or registration for a period of not more than three years.

3. Imposition of an administrative penalty of not more than two thousand dollars for each violation of this chapter or rules adopted pursuant to this chapter.

4. Imposition of restrictions on the scope of the registrant's professional practice or the home inspector's practice.

5. Imposition of peer review and professional education requirements.

6. Imposition of probation requirements that are best adapted to protect the public safety, health and welfare and that may include a requirement for restitution payments to professional services clients or to other persons suffering economic loss resulting from violations of this chapter or rules adopted pursuant to this chapter.

7. Issuance of a letter of reprimand informing a person regulated under this chapter of a violation of this chapter or rules adopted by the board.

B. The board may issue a letter of concern if the board believes there is insufficient evidence to support disciplinary action against the registrant OR HOME INSPECTOR but sufficient evidence for the board to notify the registrant OR HOME INSPECTOR of ~~its~~ THE BOARD'S concern. A letter of concern is a public document.

Ch. 196

C. The board may take disciplinary action against the holder of a certificate of registration or the home inspector under this chapter who is charged with the commission of any of the following acts:

1. Fraud or misrepresentation in obtaining a certificate of qualification, whether in the application or qualification examination.

2. Gross negligence, incompetence, bribery or other misconduct in the practice of home inspection or the registrant's profession.

3. Aiding or abetting an unregistered or uncertified person to evade this chapter or knowingly combining or conspiring with an unregistered or uncertified person, or allowing one's registration or certification to be used by an unregistered or uncertified person or acting as agent, partner, associate or otherwise of an unregistered or uncertified person, with intent to evade this chapter.

4. Violation of this chapter or board rules.

Ch. 196

5. ~~After receiving payment from a client, failure by~~ A ~~registrant~~ REGISTRANT'S FAILURE to pay a collaborating registered professional WITHIN SEVEN CALENDAR DAYS AFTER THE REGISTRANT RECEIVES PAYMENT FROM A CLIENT UNLESS SPECIFIED OTHERWISE CONTRACTUALLY BETWEEN THE PRIME PROFESSIONAL AND THE COLLABORATING REGISTERED PROFESSIONAL. For purposes of this paragraph "collaborating registered professional" means a registered professional with whom the prime professional has a contract to perform professional services.

D. The board may make investigations, employ investigators and expert witnesses, appoint members of advisory committees and conduct hearings to determine whether a disciplinary action should be taken against the holder of a certificate of registration or the home inspector under this chapter.

E. An investigation may be initiated on receipt of an oral or written complaint. The board, on its own motion, may direct the executive director to file a verified complaint charging a person with a violation of this chapter or board rules and shall give notice of the hearing pursuant to title 41, chapter 6, article 10. The secretary or executive director shall then serve upon the accused, by either personal service or certified mail, a copy of the complaint together with notice setting forth the charge or charges to be heard and the time and place of the hearing, which shall not be less than thirty days after the service or mailing of notice.

F. A person who has been notified of charges pending against the person shall file with the board an answer in writing to the charges not more than thirty days after service of the complaint and notice of hearing. If a person fails to answer in writing, it is deemed an admission by the person of the act or acts charged in the complaint and notice of hearing. The board may then take disciplinary action pursuant to this chapter without a hearing.

G. A disciplinary action may be informally settled by the board and the accused either before or after initiation of hearing proceedings.

H. On its determination that a registrant or a home inspector has violated this chapter or a rule adopted pursuant to this chapter, the board may assess the registrant or the home inspector with its reasonable costs and expenses incurred in conducting the investigation and administrative hearing.

Chs. 196 and 324

All monies collected pursuant to this subsection shall be ~~transmitted to the state treasurer for deposit~~ DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, in the technical registration fund established by section 32-109 and shall only be used by the board to defray its expenses in connection with disciplinary investigations and hearings. Notwithstanding section 35-143.01, these monies may be spent without legislative appropriation.

I. The board shall immediately notify the secretary of state and clerk of the board of supervisors of each county in the state of the suspension or revocation of a certificate or of the reissuance of a suspended or revoked certificate.

J. Except as provided in section 41-1092.08, subsection H, final decisions of the board are subject to judicial review pursuant to title 12, chapter 7, article 6.

EXPLANATION OF BLEND
SECTION 32-1451

Laws 2001, Chapters 88, 201, 214 and 270

Laws 2001, Ch. 88, section 1	Effective August 9
Laws 2001, Ch. 201, section 8	Effective August 9
Laws 2001, Ch. 214, section 1	Effective August 9
Laws 2001, Ch. 270, section 5	Effective August 9

Explanation

Since these four enactments are not incompatible, the Laws 2001, Ch. 88, Ch. 201, Ch. 214 and Ch. 270 text changes to section 32-1451 are blended in the form shown on the following pages.

BLEND OF SECTION 32-1451
Laws 2001, Chapters 88, 201, 214 and 270

32-1451. Grounds for disciplinary action; duty to report; immunity; proceedings; board action; notice requirements

A. The board on its own motion may investigate any evidence that appears to show that a doctor of medicine is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of medicine. On written request of a complainant the board shall review a complaint that has been administratively closed by the executive director and take any action it deems appropriate. Any person may, and a doctor of medicine, the Arizona medical association, a component county society of that association and any health care institution shall, report to the board any information that appears to show that a doctor of medicine is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of medicine. The board or the executive director shall notify the doctor as to the content of the complaint as soon as reasonable. Any person or entity that reports or provides information to the board in good faith is not subject to an action for civil damages. If requested, the board shall not disclose the name of a person who supplies information regarding a licensee's drug or alcohol impairment. It is an act of unprofessional conduct for any doctor of medicine to fail to report as required by this section. The board shall report any health care institution that fails to report as required by this section to that institution's licensing agency.

B. The chief executive officer, the medical director or the medical chief of staff of a health care institution shall inform the board if the privileges of a doctor to practice in that health care institution are denied, revoked, suspended or limited because of actions by the doctor that appear to show that the doctor is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the practice of medicine, along with a general statement of the reasons, including patient chart numbers, that led the health care institution to take the action. The chief executive officer, the medical director or the medical chief of staff of a health care institution shall inform the board if a doctor under investigation resigns or if a doctor resigns in lieu of disciplinary action by the health care institution. Notification shall include a general statement of the reasons for the resignation, including patient chart numbers. The board shall inform all appropriate health care institutions in this state as defined in section 36-401 and the Arizona health care cost containment system ADMINISTRATION of a resignation, denial, revocation, suspension or limitation, and the general reason for that action, without divulging the name of the reporting health care institution. A person who reports information in good faith pursuant to this subsection is not subject to civil liability.

Chs. 88, 201, 214 and 270

C. The board or, if delegated by the board, the executive director shall require any combination of mental, physical or oral or written medical competency examinations and conduct necessary investigations including investigational interviews between representatives of the board and the doctor to fully inform itself with respect to any information filed with the board under subsection A of this section. These examinations may include biological fluid testing. The board or, if delegated by the board, the executive director may require the doctor, at the doctor's expense, to undergo assessment by a board approved rehabilitative, retraining or assessment program.

D. If the board finds, based on the information it receives under subsections A and B of this section, that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the board may RESTRICT, LIMIT OR order a summary suspension of a license pending proceedings for revocation or other action. If the board takes ~~this~~ action PURSUANT TO THIS SUBSECTION it shall also serve the licensee with a written notice that states the charges and that the licensee is entitled to a formal hearing before the board or an administrative law judge within sixty days.

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E. If, after completing its investigation, the board finds that the information provided pursuant to subsection A of this section is not of sufficient seriousness to merit disciplinary action against the license of the doctor, the board or a board committee may take either of the following actions:

1. Dismiss if, in the opinion of the board, the information is without merit.

2. File an advisory letter. The licensee may file a written response with the board within thirty days after receiving the advisory letter.

F. If the board finds that it can take rehabilitative or disciplinary action without the presence of the doctor at a formal interview it may enter into a consent agreement with the doctor to limit or restrict the doctor's practice or to rehabilitate the doctor, protect the public and ensure the doctor's ability to safely engage in the practice of medicine. The board may also require the doctor to successfully complete a board approved rehabilitative, retraining or assessment program.

G. ~~If after completing its investigation the board believes that the information is or may be true, it may request a formal interview with the doctor.~~ IF REQUESTED, THE BOARD SHALL NOT DISCLOSE THE NAME OF THE PERSON WHO PROVIDED INFORMATION REGARDING A LICENSEE'S DRUG OR ALCOHOL IMPAIRMENT OR THE NAME OF THE PERSON WHO FILES A COMPLAINT IF THAT PERSON REQUESTS ANONYMITY.

H. IF AFTER COMPLETING ITS INVESTIGATION THE BOARD BELIEVES THAT THE INFORMATION IS OR MAY BE TRUE, IT MAY REQUEST A FORMAL INTERVIEW WITH THE DOCTOR. If the doctor refuses the invitation FOR FORMAL INTERVIEW or accepts and the results indicate that grounds may exist for revocation or suspension of the doctor's license for more than twelve months, the board shall issue a formal complaint and order that a hearing be held pursuant to title 41, chapter 6, article 10. If after completing a formal interview the board finds that the protection of the public requires emergency action, it may

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order a summary suspension of the license pending formal revocation proceedings or other action authorized by this section.

I. AT LEAST TEN BUSINESS DAYS BEFORE THE FORMAL INTERVIEW CONDUCTED PURSUANT TO THIS SECTION, THE BOARD SHALL NOTIFY THE DOCTOR AND, AT THE DOCTOR'S REQUEST, THE BOARD SHALL PROVIDE THE DOCTOR WITH THE INFORMATION LISTED IN THIS SUBSECTION. THE DOCTOR AND THE DOCTOR'S ATTORNEY MAY NOT RELEASE ANY INFORMATION OBTAINED UNDER THIS SECTION TO ANY OTHER PERSON. THE BOARD SHALL PROVIDE THE FOLLOWING INFORMATION TO THE DOCTOR OR THE DOCTOR'S ATTORNEY:

Ch. 214

1. ANY REVIEW CONDUCTED BY AN EXPERT OR CONSULTANT PROVIDING AN EVALUATION OF OR OPINION ON THE ALLEGATIONS.

2. ANY RECORDS ON THE PATIENT OBTAINED BY THE BOARD FROM OTHER HEALTH CARE PROVIDERS.

3. THE RESULTS OF ANY EVALUATIONS OR TESTS OF THE DOCTOR CONDUCTED AT THE BOARD'S DIRECTION.

4. ANY OTHER FACTUAL INFORMATION THAT THE BOARD WILL USE IN MAKING ITS DETERMINATION.

J. If after completing the formal interview the board finds the information provided under subsection A of this section is not of sufficient seriousness to merit suspension for more than twelve months or revocation of the license, it may take the following actions:

Ch. 270

1. Dismiss if, in the opinion of the board, the ~~information~~ COMPLAINT is without merit.

2. File an advisory letter. The licensee may file a written response with the board within thirty days after the licensee receives the advisory letter.

3. File a letter of reprimand.

4. Issue a decree of censure. A decree of censure is an official action against the doctor's license and may include a requirement for restitution of fees to a patient resulting from violations of this chapter or rules adopted under this chapter.

5. Fix a period and terms of probation best adapted to protect the public health and safety and rehabilitate or educate the doctor concerned. Probation may include temporary suspension for not to exceed twelve months, restriction of the doctor's license to practice medicine, a requirement for restitution of fees to a patient or education or rehabilitation at the licensee's own expense. If a licensee fails to comply with the terms of probation the board shall serve the licensee with a written notice that states that the licensee is subject to a formal hearing based on the information considered by the board at the formal interview and any other acts or conduct alleged to be in violation of this chapter or rules adopted by the board pursuant to this chapter including noncompliance with the term of probation, a consent agreement or a stipulated agreement.

6. Enter into an agreement with the doctor to restrict or limit the doctor's practice or medical activities in order to rehabilitate, retrain or assess the doctor, protect the public and ensure the physician's ability to safely engage in the practice of medicine.

~~H.~~ K. If the board finds that the information provided in subsection A or ~~G~~ I of this section warrants suspension or revocation of a license issued under this chapter, it shall initiate formal proceedings pursuant to
Ch. 214 — title 41, chapter 6, article 10.

~~I.~~ L. In a formal interview pursuant to subsection ~~G~~ H of this section or in a hearing pursuant to subsection ~~H~~ K of this section, the board in addition to any other action may impose a civil penalty in the
Ch. 270 — amount of not less than ~~three hundred~~ ONE THOUSAND dollars nor more than ten thousand dollars for each violation of this chapter or a rule adopted under this chapter.

~~J.~~ M. An advisory letter is a public document.

~~K.~~ N. Any doctor of medicine who after a formal hearing is found by the board to be guilty of unprofessional conduct, to be mentally or physically unable safely to engage in the practice of medicine or to be medically incompetent is subject to censure, probation as provided in this section, suspension of license or revocation of license or any combination of these, including a stay of action, and for a period of time or permanently and under conditions as the board deems appropriate for the protection of the public health and safety and just in the circumstance. The board may charge the costs of formal hearings to the licensee who it finds to be in violation of this chapter.

~~L.~~ O. If the board acts to modify any doctor of medicine's prescription writing privileges the board shall immediately notify the state board of pharmacy of the modification.

~~M.~~ P. If the board, during the course of any investigation, determines that a criminal violation may have occurred involving the delivery of health care, it shall make the evidence of violations available to the appropriate criminal justice agency for its consideration.

~~N.~~ Q. ~~If the board's chairperson determines that a backlog of complaints exists the chairperson may divide the board into two six member review committees. Each of these committees shall select a chairperson. Four members constitute a quorum for each committee~~ THE BOARD MAY DIVIDE INTO REVIEW COMMITTEES OF NOT LESS THAN THREE MEMBERS INCLUDING A PUBLIC MEMBER. The committees shall review complaints not dismissed by the executive director and may take the following actions:

1. Dismiss the complaint if a committee determines that ~~it is without merit~~ THE COMPLAINT IS WITHOUT MERIT.

Ch. 270 — 2. Issue an advisory letter. The licensee may file a written response with the board within thirty days after the licensee receives the advisory letter.

~~3. Refer the matter for further review by the full board.~~

3. CONDUCT A FORMAL INTERVIEW PURSUANT TO SUBSECTION H OF THIS SECTION. THIS INCLUDES INITIATING FORMAL PROCEEDINGS PURSUANT TO SUBSECTION K OF THIS SECTION AND IMPOSING CIVIL PENALTIES PURSUANT TO SUBSECTION L OF THIS SECTION.

4. REFER THE MATTER FOR FURTHER REVIEW BY THE FULL BOARD.

~~O.~~ R. PURSUANT TO SECTIONS 35-146 AND 35-147, THE BOARD SHALL DEPOSIT all monies collected from civil penalties paid pursuant to this chapter ~~shall be deposited~~ in the state general fund.

~~P.~~ S. Notice of a complaint and hearing is effective by a true copy of it being sent by certified mail to the doctor's last known address of record in the board's files. Notice of the complaint and hearing is complete on the date of its deposit in the mail. The board shall begin a formal hearing within one hundred twenty days of that date.

~~Q.~~ T. A physician who submits an independent medical examination pursuant to an order by a court ~~or the industrial commission~~ is not subject to a complaint for unprofessional conduct unless a complaint is made or referred by a court ~~or the industrial commission~~ to the board. For purposes of this subsection, "independent medical examination" means a professional analysis of medical status based on a person's past and present physical and psychiatric history and conducted by a licensee or group of licensees on a contract basis for a court ~~or for the industrial commission~~.

Ch. 201

~~R.~~ U. The board may accept the surrender of an active license from a person who admits in writing to any of the following:

1. Being unable to safely engage in the practice of medicine.
2. Having committed an act of unprofessional conduct.
3. Having violated this chapter or a board rule.

V. IN DETERMINING THE APPROPRIATE DISCIPLINARY ACTION UNDER THIS SECTION, THE BOARD SHALL CONSIDER ALL PREVIOUS NONDISCIPLINARY AND DISCIPLINARY ACTIONS AGAINST A LICENSEE.

Ch. 88

EXPLANATION OF BLEND
SECTION 32-3201

Laws 2001, Chapters 10 and 290

Laws 2001, Ch. 10, section 3 — Effective August 9

Laws 2001, Ch. 290, section 1 — Effective August 9

Explanation

Since the Ch. 10 version includes all of the changes made by the Ch. 290 version, the Laws 2001, Ch. 10 amendment of section 32-3201 is the blend of both the Laws 2001, Ch. 10 and Ch. 290 versions.

BLEND OF SECTION 32-3201
Laws 2001, Chapters 10 and 290

32-3201. Definitions

In this chapter, unless the context otherwise requires:

Ch. 10 — 1. "Health profession regulatory board" means any board ~~which~~ THAT regulates one or more health professionals in this state.

2. "Health professional" means a person who is certified or licensed pursuant to chapter 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25, 28, ~~or~~ 29[, 33, 34, 35, 39 OR 41] of this title, title 36, chapter 6, article 7 or title 36, chapter 17.

Chs. 10 and 290

EXPLANATION OF BLEND
SECTION 34-201

Laws 2001, Chapters 77 and 199

Laws 2001, Ch. 77, section 1	Effective August 9
Laws 2001, Ch. 199, section 1	Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 77 and Ch. 199 text changes to section 34-201 are blended in the form shown on the following pages.

BLEND OF SECTION 34-201
Laws 2001, Chapters 77 and 199

34-201. Notice of intention to receive bids and enter contract; procedure; doing work without advertising for bids; county compliance

Ch. 77 A. Except as provided in subsections B through ~~F~~ G and ~~K~~ L of this section, every agent shall, upon acceptance and approval of the working drawings and specifications, publish a notice to contractors of intention to Ch. 199 receive bids and contract for the proposed work~~;~~ and stating:

1. The nature of the work required, the type, purpose and location of the proposed building, and where the plans, specifications and full information as to the proposed work may be obtained.

2. That contractors desiring to submit proposals may obtain copies of full or partial sets of plans and specifications for estimate on request or by appointment. The return of such plans and specifications shall be guaranteed by a deposit of a designated amount which shall be refunded on return of the plans and specifications in good order.

3. That every proposal shall be accompanied by a certified check, cashier's check or surety bond for ten per cent of the amount of the bid included in the proposal as a guarantee that the contractor will enter into a contract to perform the proposal in accordance with the plans and specifications. Notwithstanding the provisions of any other statute, the surety bond shall be executed solely by a surety company or companies holding a certificate of authority to transact surety business in this state issued by the director of the department of insurance pursuant to title 20, chapter 2, article 1. The surety bond shall not be executed by an individual surety or sureties, even if the requirements of section 7-101 are satisfied. The certified check, cashier's check or surety bond shall be returned to the contractors whose proposals are not accepted, and to the successful contractor upon the execution of a satisfactory bond and contract as provided in this article. The conditions and provisions of the surety bid bond regarding the surety's obligations shall follow the following form:

> Now, therefore, if the obligee accepts the proposal of the principal and the principal enters into a contract with the obligee in accordance with the terms of the proposal and gives the bonds and certificates of insurance as specified in the standard specifications with good and sufficient surety for the faithful performance of the contract and for the prompt payment of labor and materials furnished in the prosecution of the contract, or in the event of the failure of the principal to enter into the contract and give the bonds and certificates of insurance, if the principal pays to the obligee the difference not to exceed the penalty of the bond between the amount specified in the proposal and such larger amount for which the obligee may in good faith contract with another party to perform the work covered by the proposal then this obligation is void.

Otherwise it remains in full force and effect provided, however, that this bond is executed pursuant to the provisions of section 34-201, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of the section to the extent as if it were copied at length herein.

4. That the right is reserved to reject any or all proposals or to withhold the award for any reason the agent determines.

B. If the agent believes that any construction, building addition or alteration contemplated at a public institution can be advantageously done by the inmates ~~thereof~~ OF THE PUBLIC INSTITUTION and regularly employed help, the agent may cause the work to be done without advertising for bids.

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C. Any building, structure, addition or alteration may be constructed either with or without the use of the agent's regularly employed personnel without advertising for bids provided that the total cost of the work, excluding materials and equipment previously acquired by bid, does not exceed:

1. In fiscal year 1994-1995, fourteen thousand dollars.

2. In fiscal year 1995-1996 and each fiscal year thereafter, the amount provided in paragraph 1 of this subsection adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563~~, subsection E~~.

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D. Notwithstanding the provisions of subsection C of this section, any street, road, bridge, water or sewer work, other than a water or sewer treatment plant or building, may be constructed either with or without the use of the agent's regularly employed personnel without advertising for bids provided that the total cost of the work does not exceed:

1. In fiscal year 1994-1995, one hundred fifty thousand dollars.

2. In fiscal year 1995-1996 and each fiscal year thereafter, the amount provided in paragraph 1 of this subsection adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563~~, subsection E~~.

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E. FOR THE PURPOSES OF SUBSECTION D OF THIS SECTION, THE TOTAL COST OF WATER OR SEWER WORK DOES NOT INCLUDE SERVICES PROVIDED BY VOLUNTEERS OR DONATIONS MADE FOR THE WATER OR SEWER PROJECT.

~~E.~~ F. Notwithstanding the provisions of this section, an agent may:

1. Construct, reconstruct, install or repair a natural gas or electric utility and distribution system, owned or operated by such agent, with regularly employed personnel of the agent without advertising for bids, unless otherwise prohibited by charter or ordinance.

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2. CONSTRUCT RECREATIONAL PROJECTS, INCLUDING TRAILS, PLAYGROUNDS, BALLPARKS AND OTHER SIMILAR FACILITIES AND EXCLUDING BUILDINGS, STRUCTURES, BUILDING ADDITIONS AND ALTERATIONS TO BUILDINGS, STRUCTURES AND BUILDING ADDITIONS, WITH VOLUNTEER WORKERS OR WORKERS PROVIDED BY A NONPROFIT ORGANIZATION WITHOUT ADVERTISING FOR BIDS FOR LABOR AND MATERIALS PROVIDED THAT THE TOTAL COST OF THE WORK DOES NOT EXCEED:

(a) IN FISCAL YEAR 2001-2002, ONE HUNDRED FIFTY THOUSAND DOLLARS.

(b) IN FISCAL YEAR 2002-2003 AND EACH FISCAL YEAR THEREAFTER, THE AMOUNT PROVIDED IN SUBDIVISION (a) OF THIS PARAGRAPH ADJUSTED BY THE ANNUAL PERCENTAGE CHANGE IN THE GDP PRICE DEFLATOR AS DEFINED IN SECTION 41-563.

~~F.~~ G. A contribution by an agent for the financing of public infrastructure made pursuant to a development agreement is exempt from the provisions of this section if such contribution for any single development does not exceed:

1. In fiscal year 1994-1995, one hundred thousand dollars.

2. In fiscal year 1995-1996 and each fiscal year thereafter, the amount provided in paragraph 1 of this subsection adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563~~, subsection E~~.

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~~G.~~ H. In addition to other state or local requirements relating to the publication of bids, each agent shall provide at least one set of all plans and specifications to any construction news reporting service that files an annual request with the agent. For the purposes of this subsection, "construction news reporting service" means a service that researches, gathers and disseminates news and reports either in print or electronically, on at least a weekly basis for building projects, construction bids, the purchasing of materials, supplies or services and other construction bidding or planned activity to the allied construction industry. The allied construction industry includes both general and specialty contractors, builders, material and service suppliers, architects and engineers, owners, developers and government agencies.

~~H.~~ I. Any construction by a county under this section shall comply with the uniform accounting system prescribed for counties by the auditor general under section 41-1279.21. Any construction by a city or town under this section shall comply with generally accepted accounting principles.

~~I.~~ J. Any construction, building addition or alteration project which is financed by monies of this state or its political subdivisions shall not use endangered wood species unless an exemption is granted by the director of the department of administration. The director shall only grant an exemption if the use of endangered wood species is deemed necessary for historical restoration or to repair existing facilities and the use of any substitute material is not practical. Any lease-purchase agreement entered into by this state or its political subdivisions for construction shall specify that no endangered wood species may be used in the construction unless an exemption is granted by the director. As used in this subsection, "endangered wood species" includes those listed in appendix I of the convention on international trade in endangered species of wild flora and fauna.

~~J.~~ K. All bonds given by a contractor and surety pursuant to the provisions of this article, regardless of their actual form, will be deemed by law to be the form required and set forth in this article and no other.

~~K.~~ L. Any building, structure, addition or alteration may be constructed without complying with this article if the construction, including construction of buildings or structures on public or private property, is required as a condition of development of private property and is authorized by section 9-463.01 or 11-806.01. For the purposes of this subsection, building does not include police, fire, school, library, or other public buildings.

~~L.~~ M. Notwithstanding section 34-221, any agent may enter into a guaranteed energy cost savings contract with a qualified provider, as those terms are defined in section 15-213.01, for the purchase of energy cost savings measures without complying with this article and may procure a guaranteed energy cost savings contract through the competitive sealed proposal process prescribed in title 41, chapter 23, article 3 or any similar competitive proposal process adopted by the agent as long as the agent follows any additional requirements set forth in section 15-213.01.

EXPLANATION OF BLEND
SECTION 34-610

Laws 2001, Chapters 77 and 227

Laws 2001, Ch. 77, section 2 — Effective August 9

Laws 2001, Ch. 227, section 13 — Effective April 23

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 77 and Ch. 227 text changes to section 34-610 are blended in the form shown on the following page.

BLEND OF SECTION 34-610
Laws 2001, Chapters 77 and 227

34-610. Accounting standards; statutory applicability

A. Any construction by a county pursuant to this chapter shall comply with the uniform accounting system prescribed for counties by the auditor general pursuant to section 41-1279.21. Any construction by a city or a town pursuant to this chapter shall comply with generally accepted accounting principles.

B. Any building, structure, addition or alteration may be constructed without complying with this chapter if the construction, including construction of buildings or structures on public or private property, is required as a condition of development of private property and is authorized by section 9-463.01 or 11-806.01. For the purposes of this subsection, building does not include police, fire, school, library or other public buildings.

Ch. 227 C. ~~Sections 34-102, 34-103 and~~ SECTION 34-104, section 34-201, subsections A through ~~H, J and~~ I, K AND L and sections 34-202, 34-203, 34-221, 34-222, 34-223 and 34-224 do not apply to procurement by an agent of
Ch. 77 construction-manager-at-risk construction services, design-build construction services and job-order-contracting construction services.

D. Section 34-201, subsections ~~I~~ J and ~~L~~ M and sections 34-225 and 34-226 apply to procurement by an agent of construction-manager-at-risk construction services, design-build construction services and job-order-contracting construction services.

EXPLANATION OF BLEND
SECTION 35-323

Laws 2001, Chapters 28 and 117

Laws 2001, Ch. 28, section 3 — Effective August 9

Laws 2001, Ch. 117, section 25 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 28 and Ch. 117 text changes to section 35-323 are blended in the form shown on the following pages.

BLEND OF SECTION 35-323
Laws 2001, Chapters 28 and 117

35-323. Investing public monies; bidding; security and other requirements

A. The treasurer shall invest and reinvest public monies in securities and deposits with a maximum maturity of ~~three~~ FIVE years. All public monies shall be invested in eligible investments. Eligible investments are:

1. Certificates of deposit in eligible depositories.

2. Interest bearing savings accounts in banks and savings and loan institutions doing business in this state whose accounts are insured by federal deposit insurance for their industry, but only if deposits in excess of the insured amount are secured by the eligible depository to the same extent and in the same manner as required under this article.

3. Repurchase agreements with a maximum maturity of one hundred eighty days.

4. The pooled investment funds established by the state treasurer pursuant to section 35-326.

Ch. 28 ~~5. Bonds or other evidences of indebtedness of the United States or any of its agencies or instrumentalities if the obligations are guaranteed as to principal and interest by the United States or by any agency or instrumentality of the United States.~~

Ch. 117 5. OBLIGATIONS ISSUED OR GUARANTEED BY THE UNITED STATES OR ANY OF THE SENIOR DEBT OF ITS AGENCIES, SPONSORED AGENCIES, CORPORATIONS, SPONSORED CORPORATIONS OR INSTRUMENTALITIES.

6. Bonds or other evidences of indebtedness of this state or any of its counties, incorporated cities or towns or school districts.

7. Bonds, notes or evidences of indebtedness of any county, municipal district, municipal utility or special taxing district within this state that are payable from revenues, earnings or a special tax specifically pledged for the payment of the principal and interest on the obligations, and for the payment of which a lawful sinking fund or reserve fund has been established and is being maintained, but only if no default in payment on principal or interest on the obligations to be purchased has occurred within five years of the date of investment, or, if such obligations were issued less than five years before the date of investment, no default in payment of principal or interest has occurred on the obligations to be purchased nor any other obligations of the issuer within five years of the investment.

8. Bonds, notes or evidences of indebtedness issued by any county improvement district or municipal improvement district in this state to finance local improvements authorized by law, if the principal and interest of the obligations are payable from assessments on real property within the improvement district. An investment shall not be made if:

(a) The face value of all such obligations, and similar obligations outstanding, exceeds fifty per cent of the market value of the real property, and if improvements on which the bonds or the assessments for the payment of

principal and interest on the bonds are liens inferior only to the liens for general ad valorem taxes.

(b) A default in payment of principal or interest on the obligations to be purchased has occurred within five years of the date of investment, or, if the obligations were issued less than five years before the date of investment, a default in the payment of principal or interest has occurred on the obligations to be purchased or on any other obligation of the issuer within five years of the investment.

9. COMMERCIAL PAPER OF PRIME QUALITY THAT IS RATED "P1" BY MOODY'S INVESTORS SERVICE OR RATED "A1" OR BETTER BY STANDARD AND POOR'S RATING SERVICE OR THEIR SUCCESSORS. ALL COMMERCIAL PAPER MUST BE ISSUED BY CORPORATIONS ORGANIZED AND DOING BUSINESS IN THE UNITED STATES.

Ch. 28

10. BONDS, DEBENTURES AND NOTES THAT ARE ISSUED BY CORPORATIONS ORGANIZED AND DOING BUSINESS IN THE UNITED STATES AND THAT ARE RATED "A" OR BETTER BY MOODY'S INVESTOR SERVICE OR STANDARD AND POOR'S RATING SERVICE OR THEIR SUCCESSORS.

B. Certificates of deposit shall be purchased from the eligible depository bidding the highest permissible rate of interest. No monies over one hundred thousand dollars may be awarded at any interest rate less than one hundred three per cent of the equivalent bond yield of the offer side of United States treasury bills having a similar term. If the eligible depository offering to pay the highest rate of interest has bid only for a portion of the monies to be awarded, the remainder of the monies shall be awarded to eligible depositories bidding the next highest rates of interest.

C. An eligible depository is not eligible to receive total aggregate deposits from this state and all its subdivisions in an amount exceeding twice its capital structure as outlined in the last call of condition of the superintendent of banks.

D. If two or more eligible depositories submit bids of an identical rate of interest for all or any portion of the monies to be deposited, the award of the deposit of the monies shall be made to the eligible depository among those submitting identical bids having, at the time of the bid opening, the lowest ratio of total public deposits in relation to its capital structure.

E. Each bid submitted, and not withdrawn prior to the time specified, constitutes an irrevocable offer to pay interest as specified in the bid on the deposit, or portion bid for, and the award of a deposit in accordance with this section obligates the depository to accept the deposit and pay interest as specified in the bid pursuant to which the deposit is awarded.

F. The treasurer shall maintain a record of all bids received and shall make available to the board of deposit at its next regularly scheduled meeting a correct list showing the bidders, the bids received and the amount awarded. These records shall be available to the public and shall be kept in the possession of the treasurer for not less than two years from the date of the report.

G. Any eligible depository, before receiving a deposit in excess of the insured amount under this article, shall deliver collateral for the purposes of this subsection equal to at least one hundred one per cent of the deposit. The collateral shall be any of the following:

1. A bond executed by a surety company that is approved by the treasury department of the United States and authorized to do business in this state. The bond shall be approved as to form by the legal advisor of the treasurer.

2. Securities or instruments of the following character:

(a) United States government or agency obligations.

(b) State, county, school district and other district municipal bonds.

(c) Registered warrants of this state, a county or other political subdivisions of this state, when offered as security for monies of the state, county or political subdivision by which they are issued.

(d) First mortgages and trust deeds on improved, unencumbered real estate located in this state. No single first mortgages or trust deeds may represent more than ten per cent of the total collateral. The treasurer may require that the first mortgages or trust deeds comprising the total collateral security be twice the amount the eligible depository receives on deposit. First mortgages or trust deeds qualify as collateral subject to the following limitations:

(i) The promissory note or other evidences of indebtedness secured by such first mortgage or trust deed shall have been in existence for at least three years and shall not have been in default during this period.

(ii) An eligible depository shall at its own expense execute, deposit with the treasurer and record with the appropriate county recorder a complete sale and assignment with recourse in a form approved by the attorney general, together with an unconditional assumption of obligation to promptly pay to the entitled parties public monies in its custody upon lawful demand and tender of resale and assignment.

Eligible depositories may deposit the security described in this subdivision with the state treasurer, and county, city or town treasurers may accept the security described in this subdivision at their option.

3. The safekeeping receipt of a federal reserve bank or any bank located in a reserve city, or any bank authorized to do business in this state, whose combined capital, surplus and outstanding capital notes and debentures on the date of the safekeeping receipt are ten million dollars or more, evidencing the deposit therein of any securities or instruments described in this section. A safekeeping receipt shall not qualify as security, if issued by a bank to secure its own public deposits, unless issued directly through its trust department. The safekeeping receipt shall show upon its face that it is issued for the account of the treasurer and shall be delivered to the treasurer. The safekeeping receipt may provide for the substitution of securities or instruments which qualify under this section with the affirmative act of the treasurer.

H. The securities, instruments or safekeeping receipt for the securities, instruments or warrants shall be accepted at market value if not above par, and, if at any time their market value becomes less than the deposit liability to that treasurer, additional securities or instruments required to guarantee deposits shall be deposited immediately with the treasurer who made the deposit and deposited by the eligible depository in which the deposit was made.

I. The condition of the surety bond, or the deposit of securities, instruments or a safekeeping receipt, must be such that the eligible depository will promptly pay to the parties entitled public monies in its custody, upon lawful demand, and will, when required by law, pay the monies to the treasurer making the deposit.

J. Notwithstanding the requirements of this section, any institution qualifying as an eligible depository may accept deposits of public monies to the total then authorized insurance of accounts, insured by federal deposit insurance, without depositing a surety bond or securities in lieu of the surety bond.

K. An eligible depository shall report monthly to the treasurer the total deposits of that treasurer and the par value and the market value of any pledged collateral securing those deposits.

L. When a security or instrument pledged as collateral matures or is called for redemption, the cash received for the security or instrument shall be held in place of the security until the depository has obtained a written release or provided substitute securities or instruments.

M. The surety bond, securities, instruments or safekeeping receipt of an eligible depository shall be deposited with the treasurer making the deposit, and he shall be the custodian of the bond, securities, instruments or safekeeping receipt. The treasurer may then deposit with the depository public monies then in his possession in accordance with this article, but not in an amount in excess of the surety bond, securities, instruments or safekeeping receipt deposited, except for federal deposit insurance.

N. The following restrictions on investments are applicable:

1. An investment of public operating fund monies shall not be invested for a duration of longer than three years.

2. The board of deposit may order the treasurer to sell any of the securities, and any order shall specifically describe the securities and fix the date upon which they are to be sold. Securities so ordered to be sold shall be sold for cash by the treasurer on the date fixed in the order, at the then current market price. The treasurer and the members of the board are not accountable for any loss occasioned by sales of securities at prices lower than their cost. Any loss or expense shall be charged against earnings received from investment of public funds.

O. If the total amount of subdivision monies available for deposit at any time is less than one hundred thousand dollars, the subdivision board of deposit shall award the deposit of the funds to an eligible depository in accordance with an ordinance or resolution of the governing body of the subdivision.

EXPLANATION OF BLEND
SECTION 36-136

Laws 2001, Chapters 19, 21 and 82

Laws 2001, Ch. 19, section 1	Effective August 9
Laws 2001, Ch. 21, section 2	Effective August 9
Laws 2001, Ch. 82, section 1	Effective August 9

Explanation

Since these three enactments are not incompatible, the Laws 2001, Ch. 19, Ch. 21 and Ch. 82 text changes to section 36-136 are blended in the form shown on the following pages.

The Laws 2001, Ch. 21 version made technical changes in subsection H, paragraphs 12 and 13 (existing text numbers). The Ch. 19 version deleted subsection H, paragraph 12 and the Ch. 82 version deleted subsection H, paragraph 13. Since this would not produce a substantive change, the blend version reflects the Ch. 19 and Ch. 82 versions of these paragraphs.

BLEND OF SECTION 36-136
Laws 2001, Chapters 19, 21 and 82

36-136. Powers and duties of director; compensation of personnel

A. The director shall:

1. Be the executive officer of the department of health services and the state registrar of vital statistics but shall NOT receive ~~no~~ compensation for services as registrar. (Chs. 19, 21 and 82)

2. Perform all duties necessary to carry out the functions and responsibilities of the department.

3. Prescribe the organization of the department. The director shall appoint or remove such personnel considered necessary for the efficient work of the department and shall prescribe the duties of all personnel. The director may abolish any office or position in the department that the director believes is unnecessary.

4. Administer and enforce the laws relating to health and sanitation and the rules of the department.

5. Provide for the examination of any premises if the director has reasonable cause to believe that on the premises there exists a violation of any health law or rule of the state.

6. Exercise general supervision over all matters relating to sanitation and health throughout the state. When in the opinion of the director it is necessary or advisable, a sanitary survey of the whole or of any part of the state shall be made. The director may enter ~~upon~~, examine and survey any source and means of water supply, sewage disposal plant, sewerage system, prison, public or private place of detention, asylum, hospital, school, public building, private institution, factory, workshop, tenement, public washroom, public rest room, public toilet and toilet facility, public eating room and restaurant, dairy, milk plant or food manufacturing or processing plant, and any premises in which the director has reason to believe there exists a violation of any health law or rule of the state ~~which~~ THAT the director has the duty to administer. (Ch. 21)

7. Prepare sanitary and public health rules.

8. Perform other duties prescribed by law.

B. If the director has reasonable cause to believe that there exists a violation of any health law or rule of the state, the director may ~~make an inspection of~~ INSPECT any person or property in transportation through the state, and of any car, boat, train, trailer, airplane or other vehicle in which such person or property is transported, and may enforce detention or disinfection as reasonably necessary for the public health if there exists a violation of any health law or rule. (Chs. 19, 21 and 82)

C. The director may deputize, in writing, any qualified officer or employee in the department to do or perform ~~in~~ ON the director's ~~stead~~ BEHALF any act the director is by law empowered to do or charged with the responsibility of doing.

Chs. 19, 21 and 82

D. The director may delegate to a local health department or public health services district any functions, powers or duties ~~which~~ THAT the director believes can be competently, efficiently and properly performed by the health department or public health services district if:

1. The director or superintendent of the local health agency or public health services district is willing to accept ~~such~~ THE delegation and agrees to perform or exercise the functions, powers and duties conferred in accordance with the standards of performance established by the director.

2. ~~Funds~~ MONIES appropriated or otherwise made available to the department for distribution to or division among counties or public health services districts for local health work may be allocated or reallocated in a manner designed to assure the accomplishment of recognized local public health activities and delegated functions, powers and duties in accordance with applicable standards of performance. Whenever in the director's opinion there is cause, the director may terminate all or a part of any such delegation and may reallocate all or a part of any funds that may have been conditioned ~~upon~~ ON the further performance of the functions, powers or duties conferred.

E. The compensation of all personnel shall be as determined pursuant to section 38-611.

F. The director may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health.

G. Notwithstanding subsection H, paragraph 1 of this section, the director may define and prescribe emergency measures for detecting, reporting, preventing and controlling ~~new~~ communicable or infectious diseases or conditions if ~~he~~ THE DIRECTOR has reasonable cause to believe that a serious threat to public health and welfare exists ~~and that the communicable disease advisory council established in section 36-136.03 has reviewed and approved the emergency measure~~. Emergency measures are effective for no longer than eighteen months.

H. The director shall, by rule:

1. Define and prescribe reasonably necessary measures for detecting, reporting, preventing and controlling communicable and preventable diseases. The rules shall declare certain diseases reportable and shall further establish minimum periods of isolation or quarantine and procedures and measures to institute isolation or quarantine, including the right to a hearing. The rules shall allow the director to institute isolation or quarantine before the completion of a hearing if ~~he~~ THE DIRECTOR determines that clear and convincing evidence exists that a person poses a substantial danger to another person or the community. The rules shall prescribe measures reasonably required to prevent the occurrence of, or to seek early detection and alleviation of, disability, insofar as possible, from communicable or preventable diseases. The rules shall include reasonably necessary measures to control animal diseases transmittable to ~~man~~ HUMANS.

2. Define and prescribe reasonably necessary measures, in addition to those prescribed by law, regarding the preparation, embalming, cremation, interment, disinterment and transportation of dead human bodies and the conduct of funerals, relating to and restricted to communicable diseases and

regarding the removal, transportation, cremation, interment or disinterment of any dead human body.

3. Define and prescribe reasonably necessary procedures not inconsistent with law in regard to the use and accessibility of vital records, delayed birth registration and the completion, change and amendment of vital records.

4. Except as relating to the beneficial use of wildlife meat by public institutions and charitable organizations pursuant to title 17, prescribe reasonably necessary measures to assure that all food, including meat and meat products sold at the retail level, or drink, other than milk and milk products, sold or distributed for human consumption is free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe reasonably necessary measures governing the production, processing, labeling, storing, handling, serving and transportation of such food and drink. The rules shall prescribe minimum standards for the sanitary facilities and conditions ~~which~~ THAT shall be maintained in any plant, other than a meat packing plant, slaughterhouse or wholesale meat processing plant, and in any warehouse, restaurant or other premises and in any truck or other vehicle in which food or drink is produced, processed, stored, handled, served or transported. The rules shall provide for the inspection and licensing of premises and vehicles so used, and for abatement as public nuisances of any premises or vehicles ~~which~~ THAT do not comply with the rules and minimum standards.

Ch. 21

5. Prescribe reasonably necessary measures to assure that all meat and meat products for human consumption handled at the retail level are delivered in a manner and from sources approved by the Arizona department of agriculture and are free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe standards for sanitary facilities to be used in identity, storage, handling and sale of all meat and meat products sold at the retail level.

6. Prescribe reasonably necessary measures regarding production, processing, labeling, handling, serving and transportation of bottled water to assure that all bottled drinking water distributed for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions ~~which~~ THAT shall be maintained at any source of water, bottling plant and truck or vehicle in which bottled water is produced, processed, stored or transported and shall provide for inspection and certification of bottled drinking water sources, plants, processes and transportation and for abatement as a public nuisance of any water supply, label, premises, equipment, process or vehicle ~~which~~ THAT does not comply with the minimum standards. The rules shall prescribe minimum standards for bacteriological, physical and chemical quality for bottled water and for the submission of samples at intervals prescribed in the standards.

Ch. 21

7. Define and prescribe reasonably necessary measures governing ice production, handling, storing and distribution to assure that all ice sold or distributed for human consumption or for the preservation or storage of food for human consumption is free from unwholesome, poisonous, deleterious

or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions and the quality of ice ~~which~~ THAT shall be maintained at any ice plant, storage and truck or vehicle in which ice is produced, stored, handled or transported, and shall provide for inspection and licensing of the premises and vehicles, and for abatement as public nuisances of ice, premises, equipment, processes or vehicles ~~which~~ THAT do not comply with the minimum standards.

Ch. 21

8. Define and prescribe reasonably necessary measures concerning sewage and excreta disposal, garbage and trash collection, storage and disposal, and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels. The rules shall prescribe minimum standards for preparation of food in community kitchens, adequacy of excreta disposal, garbage and trash collection, storage and disposal and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels and shall provide for inspection of such premises and for abatement as public nuisances of any premises or facilities ~~which~~ THAT do not comply with the rules.

9. Define and prescribe reasonably necessary measures concerning the sewage and excreta disposal, garbage and trash collection, storage and disposal, water supply and food preparation of all public schools. The rules shall prescribe minimum standards for sanitary conditions ~~which~~ THAT shall be maintained in any public school and shall provide for inspection of such premises and facilities and for abatement as public nuisances of any premises ~~which~~ THAT do not comply with the minimum standards.

~~10. Define and prescribe reasonably necessary measures regarding sewage and excreta disposal, garbage and trash collection, storage and disposal, water supply and food preparation for all workshops and other places of employment. The rules shall prescribe minimum standards for sanitary conditions and facilities at workshops and other places of employment and shall provide for inspection of such premises and for abatement as public nuisances of any premises and facilities which do not comply with the minimum standards.~~

Ch. 21

~~11.~~ 10. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious health conditions at such places. The rules shall prescribe minimum standards for sanitary conditions ~~which~~ THAT shall be maintained at any public or semipublic swimming pool or bathing place and shall provide for inspection of such premises and for abatement as public nuisances of any premises and facilities ~~which~~ THAT do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of environmental quality and shall be consistent with the rules adopted by the director of the department of environmental quality pursuant to section 49-104, subsection B, paragraph 12.

~~12. Define and prescribe reasonably necessary measures regarding minimum standards for the sanitary conditions and facilities which shall be maintained in any public or semipublic building and shall provide for inspection of such premises and for abatement as public nuisances of any premises and facilities which do not comply with the minimum standards.~~

Ch. 19

~~13. Define and prescribe reasonably necessary sanitary measures concerning sewage collection, treatment and disposal, putrescible waste collection, storage and disposal and rubbish, trash and manure collection, storage and disposal for all fertilizer manufacturing plants. The rules shall prescribe minimum standards for the sanitary conditions and facilities which shall be maintained at any such plant and shall provide for inspection of such premises and for abatement as public nuisances of any premises and facilities which do not comply with the minimum standards.~~

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~~14.~~ 11. Prescribe reasonably necessary measures to keep confidential information relating to diagnostic findings and treatment of patients, as well as information relating to contacts, suspects and associates of communicable disease patients. In no event shall such confidential information be made available for political or commercial purposes.

~~15.~~ 12. Prescribe reasonably necessary measures regarding human immunodeficiency virus testing as a means to control the transmission of that virus, including the designation of anonymous test sites as dictated by current epidemiologic and scientific evidence.

I. The rules adopted under the authority conferred by this section shall be observed throughout the state and shall be enforced by each local board of health or public health services district, but this section does not limit the right of any local board of health or county board of supervisors to adopt ordinances and rules as authorized by law within its jurisdiction, provided that the ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the director.

J. The powers and duties prescribed by this section do not apply in instances in which regulatory powers and duties relating to public health are vested by the legislature in any other state board, commission, agency or instrumentality, except that with regard to the regulation of meat and meat products, the department of health services and the Arizona department of

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agriculture within the area delegated to each shall adopt rules ~~which~~ THAT are not in conflict.

K. The director, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

L. After consultation with the state superintendent of public instruction, the director shall prescribe the criteria the department shall use in deciding whether or not to notify a local school district that a pupil in the district has tested positive for the human immunodeficiency virus antibody. The director shall prescribe the procedure by which the department shall notify a school district if, pursuant to these criteria, the department determines that notification is warranted in a particular situation. This

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procedure shall include a requirement that ~~prior to~~ BEFORE notification the department shall determine to its satisfaction that the district has an appropriate policy relating to nondiscrimination of the infected pupil and confidentiality of test results and that proper educational counseling has been or will be provided to staff and pupils.

EXPLANATION OF BLEND
SECTION 36-275

Laws 2001, Chapters 165 and 387

Laws 2001, Ch. 165, section 1	Effective August 9
Laws 2001, Ch. 387, section 1	Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 165 and Ch. 387 text changes to section 36-275 are blended in the form shown on the following page.

BLEND OF SECTION 36-275
Laws 2001, Chapters 165 and 387

36-275. Health research fund

A. The health research fund is established. Notwithstanding any law to the contrary, the ~~department~~ COMMISSION shall deposit, pursuant to sections 35-146 and 35-147, all monies it administers pursuant to section 36-773 into the health research fund. The commission shall administer the fund.

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B. The commission shall only expend monies in the health research fund for research on the prevention and treatment of tobacco related disease and addiction AND RESEARCH INTO THE CAUSES, EPIDEMIOLOGY AND DIAGNOSIS OF DISEASES, THE FORMULATION OF CURES, THE MEDICALLY ACCEPTED TREATMENT OR THE PREVENTION OF DISEASES INCLUDING NEW DRUG DISCOVERY AND DEVELOPMENT, ~~which~~ AND may include behavioral studies and attitude assessments, and for expenses incurred by the commission in carrying out the purposes ~~defined~~ DESCRIBED in section 36-773.

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C. Monies in the health research fund are exempt from section 35-190 relating to lapsing of appropriations.

EXPLANATION OF BLEND
SECTION 36-2901

Laws 2001, Chapters 218 and 385

Laws 2001, Ch. 218, section 11 — Effective August 9

Laws 2001, Ch. 385, section 2 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 218 and Ch. 385 text changes to section 36-2901 are blended in the form shown on the following pages.

Section 36-2901 was amended an additional time by Laws 2001, Ch. 344 with a conditional enactment that will require a separate blend in addition to this blend.

BLEND OF SECTION 36-2901
Laws 2001, Chapters 218 and 385

36-2901. Definitions

In this article, unless the context otherwise requires:

1. "Administration" means the Arizona health care cost containment system administration.

2. "Administrator" means the administrator of the Arizona health care cost containment system.

3. "Director" means the director of the Arizona health care cost containment system administration.

4. "Eligible person" means any person who is:

(a) Classified as an indigent pursuant to section 11-297.

(b) Under federal law any of the following:

(i) Defined as mandatorily or optionally eligible pursuant to title XIX of the social security act as authorized by the state plan.

(ii) Defined as an eligible pregnant woman, and an infant under the age of one year, pursuant to section 1902(l)(1)(A) and (B) of title XIX of the social security act, as amended by section 4603 of the omnibus budget reconciliation act of 1990, and whose family income does not exceed one hundred forty per cent of the federal poverty guidelines as updated annually in the federal register by the United States department of health and human services and children defined as eligible children who have not attained nineteen years of age pursuant to section 1902(l)(1)(D) of title XIX of the social security act, as amended by section 4601 of the omnibus budget reconciliation act of 1990, and whose family income does not exceed one hundred per cent of the federal poverty guidelines as updated annually in the federal register by the United States department of health and human services, and children defined as eligible pursuant to section 1902 (l)(1)(C) of title XIX of the social security act, as amended by section 6401 of the omnibus budget reconciliation act of 1989, and whose family income does not exceed one hundred thirty-three per cent of the federal poverty guidelines as updated annually in the federal register by the United States department of health and human services.

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(iii) Under twenty-one years of age~~,~~ AND who was in the custody of the department of economic security pursuant to title 8, chapter 5 or 10 when the person became eighteen years of age ~~and who has an income that does not exceed two hundred per cent of the federal poverty guidelines as updated annually in the federal register by the United States department of health and human services~~.

(c) Classified as a medically needy person pursuant to section 36-2905.

(d) A full-time officer or employee of this state or of a city, town or school district of this state or other person who is eligible for hospitalization and medical care under title 38, chapter 4, article 4.

(e) A full-time officer or employee of any county in this state or other persons authorized by the county to participate in county medical care

and hospitalization programs if the county in which such officer or employee is employed has authorized participation in the system by resolution of the county board of supervisors.

(f) An employee of a business within this state.

(g) A dependent of an officer or employee who is participating in the system.

(h) Classified as an eligible child pursuant to section 36-2905.03.

(i) Not enrolled in the Arizona long-term care system pursuant to article 2 of this chapter.

(j) Classified as an eligible person pursuant to section 36-2905.05.

Ch. 385 (k) DEFINED AS ELIGIBLE PURSUANT TO SECTION 1902(a)(10)(A)(ii)(XV) AND (XVI) OF TITLE XIX OF THE SOCIAL SECURITY ACT AND WHO MEETS THE INCOME REQUIREMENTS OF SECTION 36-2929.

5. "Malice" means evil intent and outrageous, oppressive or intolerable conduct that creates a substantial risk of tremendous harm to others.

6. "Member" means an eligible person who enrolls in the system.

7. "Nonprovider" means a person who provides hospital or medical care but does not have a contract or subcontract within the system.

8. "Physician" means a person licensed pursuant to title 32, chapter 13 or 17.

9. "Prepaid capitated" means a mode of payment by which a health care provider directly delivers health care services for the duration of a contract to a maximum specified number of members based on a fixed rate per member notwithstanding:

(a) The actual number of members who receive care from the provider.

(b) The amount of health care services provided to any member.

10. "Primary care physician" means a physician who is a family practitioner, general practitioner, pediatrician, general internist, or obstetrician or gynecologist.

11. "Primary care practitioner" means a nurse practitioner certified pursuant to title 32, chapter 15 or a physician assistant certified pursuant to title 32, chapter 25. This paragraph does not expand the scope of practice for nurse practitioners as defined pursuant to title 32, chapter 15, or for physician assistants as defined pursuant to title 32, chapter 25.

12. "Provider" means any person who contracts with the administration for the provision of hospitalization and medical care to members according to the provisions of this chapter or any subcontractor of such provider delivering services pursuant to this article.

13. "State plan" has the same meaning prescribed in section 36-2931.

14. "System" means the Arizona health care cost containment system established by this article.

EXPLANATION OF BLEND
SECTION 36-2901

Laws 2001, Chapters 218, 344 and 385

Laws 2001, Ch. 218, section 11	Effective August 9
Laws 2001, Ch. 344, section 35	Conditionally effective
Laws 2001, Ch. 385, section 2	Effective August 9

Explanation

Since these three enactments are not incompatible, the Laws 2001, Ch. 218, Ch. 344 and Ch. 385 text changes to section 36-2901 are blended in the form shown on the following pages.

The publisher will print this blend version pending the occurrence of the condition stated in Laws 2001, Ch. 344. If the condition does not occur before October 1, 2001, Laws 2001, Ch. 344 does not become effective and the publisher will delete this blend version of section 36-2901.

BLEND OF SECTION 36-2901
Laws 2001, Chapters 218, 344 and 385

36-2901. Definitions

In this article, unless the context otherwise requires:

1. "Administration" means the Arizona health care cost containment system administration.

2. "Administrator" means the administrator of the Arizona health care cost containment system.

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3. "CONTRACTOR" MEANS A PERSON OR ENTITY THAT HAS A PREPAID CAPITATED CONTRACT WITH THE ADMINISTRATION PURSUANT TO SECTION 36-2904 TO PROVIDE HEALTH CARE TO MEMBERS UNDER THIS ARTICLE EITHER DIRECTLY OR THROUGH SUBCONTRACTS WITH PROVIDERS.

4. "DEPARTMENT" MEANS THE DEPARTMENT OF ECONOMIC SECURITY.

~~3.~~ 5. "Director" means the director of the Arizona health care cost containment system administration.

~~4.~~ 6. "Eligible person" means any person who is:

~~(a) Classified as an indigent pursuant to section 11-297.~~

~~(b)~~ (a) ~~Under federal law~~ Any of the following:

(i) Defined as mandatorily or optionally eligible pursuant to title XIX of the social security act as authorized by the state plan.

(ii) Defined as an eligible pregnant woman, and an infant under the age of one year, pursuant to section 1902(l)(1)(A) and (B) of title XIX of the social security act, as amended by section 4603 of the omnibus budget reconciliation act of 1990, and whose family income does not exceed one hundred forty per cent of the federal poverty guidelines as updated annually in the federal register by the United States department of health and human services and children defined as eligible children who have not attained nineteen years of age pursuant to section 1902(l)(1)(D) of title XIX of the social security act, as amended by section 4601 of the omnibus budget reconciliation act of 1990, and whose family income does not exceed one hundred per cent of the federal poverty guidelines as updated annually in the federal register by the United States department of health and human services, and children defined as eligible pursuant to section 1902(l)(1)(C) of title XIX of the social security act, as amended by section 6401 of the omnibus budget reconciliation act of 1989, and whose family income does not exceed one hundred thirty-three per cent of the federal poverty guidelines as updated annually in the federal register by the United States department of health and human services.

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(iii) Under twenty-one years of age, AND who was in the custody of the department of economic security pursuant to title 8, chapter 5 or 10 when the person became eighteen years of age ~~and who has an income that does not exceed two hundred per cent of the federal poverty guidelines as updated annually in the federal register by the United States department of health and human services~~.

(iv) DEFINED AS ELIGIBLE PURSUANT TO SECTION 36-2901.01.

Ch. 344 (v) DEFINED AS ELIGIBLE PURSUANT TO SECTION 36-2901.04.

~~(c) Classified as a medically needy person pursuant to section 36-2905.~~

~~(d)~~ (b) A full-time officer or employee of this state or of a city, town or school district of this state or other person who is eligible for hospitalization and medical care under title 38, chapter 4, article 4.

~~(e)~~ (c) A full-time officer or employee of any county in this state or other persons authorized by the county to participate in county medical care and hospitalization programs if the county in which such officer or employee is employed has authorized participation in the system by resolution of the county board of supervisors.

~~(f)~~ (d) An employee of a business within this state.

~~(g)~~ (e) A dependent of an officer or employee who is participating in the system.

~~(h) Classified as an eligible child pursuant to section 36-2905.03.~~

Ch. 344 ~~(i)~~ (f) Not enrolled in the Arizona long-term care system pursuant to article 2 of this chapter.

~~(j) Classified as an eligible person pursuant to section 36-2905.05.~~

Ch. 385 (g) DEFINED AS ELIGIBLE PURSUANT TO SECTION 1902(a)(10)(A)(ii)(XV) AND (XVI) OF TITLE XIX OF THE SOCIAL SECURITY ACT AND WHO MEETS THE INCOME REQUIREMENTS OF SECTION 36-2929.

~~5.~~ 7. "Malice" means evil intent and outrageous, oppressive or intolerable conduct that creates a substantial risk of tremendous harm to others.

~~6.~~ 8. "Member" means an eligible person who enrolls in the system.

~~7. "Nonprovider" means a person who provides hospital or medical care but does not have a contract or subcontract within the system.~~

9. "NONCONTRACTING PROVIDER" MEANS A PERSON WHO PROVIDES HEALTH CARE TO MEMBERS PURSUANT TO THIS ARTICLE BUT NOT PURSUANT TO A SUBCONTRACT WITH A CONTRACTOR.

Ch. 344 ~~8.~~ 10. "Physician" means a person licensed pursuant to title 32, chapter 13 or 17.

~~9.~~ 11. "Prepaid capitated" means a mode of payment by which a health care ~~provider~~ CONTRACTOR directly delivers health care services for the duration of a contract to a maximum specified number of members based on a fixed rate per member notwithstanding:

(a) The actual number of members who receive care from the ~~provider~~ CONTRACTOR.

(b) The amount of health care services provided to any member.

~~10.~~ 12. "Primary care physician" means a physician who is a family practitioner, general practitioner, pediatrician, general internist, or obstetrician or gynecologist.

~~11.~~ 13. "Primary care practitioner" means a nurse practitioner certified pursuant to title 32, chapter 15 or a physician assistant certified pursuant to title 32, chapter 25. This paragraph does not expand the scope of practice for nurse practitioners as defined pursuant to title 32, chapter 15, or for physician assistants as defined pursuant to title 32, chapter 25.

~~12. "Provider" means any person who contracts with the administration for the provision of hospitalization and medical care to members according to the provisions of this chapter or any subcontractor of such provider delivering services pursuant to this article.~~

14. "SECTION 1115 WAIVER" MEANS THE RESEARCH AND DEMONSTRATION WAIVER GRANTED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.

~~13.~~ 15. "State plan" has the same meaning prescribed in section 36-2931.

~~14.~~ 16. "System" means the Arizona health care cost containment system established by this article.

EXPLANATION OF BLEND
SECTION 36-2903.01

Laws 2001, Chapters 84 and 96

Laws 2001, Ch. 84, section 2 — Effective August 9

Laws 2001, Ch. 96, section 1 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 84 and Ch. 96 text changes to section 36-2903.01 are blended in the form shown on the following pages.

Section 36-2903.01 was amended an additional time by Laws 2001, Ch. 344 with a conditional enactment that will require a separate blend in addition to this blend.

BLEND OF SECTION 36-2903.01
Laws 2001, Chapters 84 and 96

36-2903.01. Additional powers and duties

A. The director may adopt rules which provide that the system may withhold or forfeit payments to be made to a nonprovider by the system if the nonprovider fails to comply with the provisions of this article or rules adopted pursuant to this article which relate to the specific services rendered for which a claim for payment is made.

B. The director shall:

1. Prescribe uniform forms to be used by all providers and shall prescribe and furnish uniform forms and procedures, including methods of identification of members, to counties to be used for determining and reporting eligibility of members. The rules may include requirements that an applicant shall personally complete or assist in the completion of eligibility application forms, except in situations in which the person is disabled. The auditor general shall make recommendations to the director regarding the format of forms in order to ensure that the system records are readily available.

2. Enter into an interagency agreement with the department of economic security or Arizona works agency established by title 46, chapter 2, article 9 under which the department of economic security or Arizona works agency established by title 46, chapter 2, article 9 shall be required to determine the eligibility of all persons defined pursuant to section 36-2901, paragraph 4, subdivision (b) and ensure that the eligibility process is designed to maximize the enrollment of such persons with the county of residence. At the administration's option, the interagency agreement may allow the administration to determine the eligibility of certain persons including those defined pursuant to section 36-2901, paragraph 4, subdivision (b). As part of the agreement, the administration shall recoup from the department of economic security or Arizona works agency all federal fiscal sanctions that result from the department of economic security's or Arizona works agency's inaccurate eligibility determinations for these persons.

3. Enter into an interagency agreement with the department of economic security or Arizona works agency established by title 46, chapter 2, article 9 which shall require the department of economic security or Arizona works agency established by title 46, chapter 2, article 9 to notify the administration of persons determined eligible for the federal food stamp program (P.L. 95-113; 91 Stat. 958-979) for the purpose of determining eligibility for the system pursuant to section 36-2905.03.

4. By rule establish a procedure and time frames for the intake of grievances and ~~appeals~~ REQUESTS FOR HEARINGS, for the continuation of benefits and services during the appeal process, for the informal resolution of grievances and ~~appeals~~ REQUESTS FOR HEARINGS and for a grievance process at the contractor level. ~~With the exception of grievances filed pursuant to section 36-2904, subsection H,~~ A grievance THAT IS NOT RELATED TO A CLAIM FOR

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PAYMENT OF SYSTEM COVERED SERVICES shall be filed in writing with and received by the administration OR THE PREPAID CAPITATED PROVIDER OR PROGRAM CONTRACTOR not later than sixty days after the date of the adverse action, decision or policy implementation being grieved. A GRIEVANCE THAT IS RELATED TO A CLAIM FOR PAYMENT OF SYSTEM COVERED SERVICES MUST BE FILED IN WRITING AND RECEIVED BY THE ADMINISTRATION OR THE PREPAID CAPITATED PROVIDER OR PROGRAM CONTRACTOR WITHIN TWELVE MONTHS AFTER THE DATE OF SERVICE, WITHIN TWELVE MONTHS AFTER THE DATE THAT ELIGIBILITY IS POSTED OR WITHIN SIXTY DAYS AFTER THE DATE OF THE DENIAL OF A TIMELY CLAIM SUBMISSION, WHICHEVER IS LATER. A GRIEVANCE FOR THE DENIAL OF A CLAIM FOR REIMBURSEMENT OF SERVICES MAY CONTEST THE VALIDITY OF ANY ADVERSE ACTION, DECISION, POLICY IMPLEMENTATION OR RULE THAT RELATED TO OR RESULTED IN THE FULL OR PARTIAL DENIAL OF THE CLAIM. A policy implementation may be subject to a grievance procedure, but it may not be appealed for a hearing. The administration is not required to participate in a mandatory settlement conference if it is not a real party in interest. In any proceeding before the administration, including a grievance or ~~appeal tribunal~~ HEARING, persons may represent themselves or be represented by a duly authorized agent who is not charging a fee. A legal entity may be represented by an officer, partner or employee who is specifically authorized by the legal entity to represent it in the particular proceeding.

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5. Apply for and accept federal funds available under title XIX of the social security act (P.L. 89-97; 79 Stat. 344; 42 United States Code section 1396 (1980)) in support of the system. The application made by the director pursuant to this paragraph shall be designed to qualify for federal funding primarily on a prepaid capitated basis. Such funds may be used only for the support of persons defined as eligible pursuant to title XIX of the social security act (P.L. 89-97; 79 Stat. 344; 42 United States Code section 1396 (1980)).

6. At least thirty days before the implementation of a policy or a change to an existing policy relating to reimbursement, provide notice to interested parties. Parties interested in receiving notification of policy changes shall submit a written request for notification to the administration.

C. The director is authorized to apply for any federal funds available for the support of programs to investigate and prosecute violations arising from the administration and operation of the system. Available state funds appropriated for the administration and operation of the system may be used as matching funds to secure federal funds pursuant to this subsection.

D. The director shall adopt rules for use by the counties in determining whether an applicant is a resident of this state and of the county and is either a United States citizen, a qualified alien as prescribed in section 36-2903.03 or eligible for state assisted emergency care under section 36-2905.05. The rules shall require that state residency is not established unless the requirements of paragraphs 1 and 2 of this subsection are met or unless residency is proved pursuant to paragraph 3 of this subsection:

1. The applicant produces one of the following:

(a) A recent Arizona rent or mortgage receipt or utility bill.

(b) A current Arizona motor vehicle driver license.

(c) A current Arizona motor vehicle registration.

(d) A document showing that the applicant is employed in this state.

(e) A document showing that the applicant has registered with a public or private employment service in this state.

(f) Evidence that the applicant has enrolled the applicant's children in a school in this state.

(g) Evidence that the applicant is receiving public assistance in this state.

(h) Evidence of registration to vote in this state.

2. The applicant signs an affidavit attesting that all of the following apply to the applicant:

(a) The applicant does not own or lease a residence outside this state.

(b) The applicant does not own or lease a motor vehicle registered outside this state.

(c) The applicant is not receiving public assistance outside this state. As used in this subdivision, "public assistance" does not include unemployment insurance benefits.

(d) The applicant is actively seeking employment in this state if he is able to work and is not employed.

3. An applicant who does not meet the requirements of paragraph 1 or 2 of this subsection may apply to have residency determined by a special eligibility officer who shall be appointed by the county board of supervisors. The special eligibility officer shall receive any proof of residency offered by the applicant and may inquire into any facts relevant to the question of residency. A determination of residency shall not be granted unless a preponderance of the credible evidence supports the applicant's intent to remain indefinitely in this state. A denial of a determination of residency may be appealed in the same manner as any other denial of eligibility for the system.

4. An applicant who has relocated to this state from another state or foreign country within six months before the date of application for the purpose of obtaining state assisted medical care pursuant to this article shall have the applicant's residency determined by a special eligibility officer appointed pursuant to paragraph 3 of this subsection. The special eligibility officer shall require, at a minimum, compliance with paragraphs 1 and 2 of this subsection. The special eligibility officer shall also receive any additional proof of residency offered by the applicant and may inquire into any facts relevant to the question of residency. A determination of residency shall not be made unless a preponderance of the credible evidence supports the applicant's intent to remain indefinitely in this state. A denial of the determination of residency may be appealed in the same manner as any other denial of eligibility for the system.

E. In accordance with constitutional standards and pursuant to subsection D of this section, the director of the department of economic security shall establish and maintain residency standards for those public benefit programs related to eligibility in the system which are equivalent to those residency standards established for the purposes of this article.

Ch. 96 — F. The director may adopt rules OR PROCEDURES to do the following:

1. Authorize advance payments based on estimated liability to a provider or a nonprovider after the provider or nonprovider has submitted a claim for services and before the claim is ultimately resolved. The rules shall specify that any advance payment shall be conditioned on the execution ~~prior to~~ BEFORE payment of a contract with the provider or nonprovider which requires the administration to retain a specified percentage, which shall be at least twenty per cent, of the claimed amount as security and which requires repayment to the administration if the administration makes any overpayment.

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2. Defer liability, in whole or in part, of prepaid capitated contract providers for care provided to members who are hospitalized on the date of enrollment or under other circumstances. Payment shall be on a capped fee-for-service basis for services other than hospital services and at the rate established pursuant to subsection I or J of this section for hospital services or at the rate paid by the health plan, whichever is less.

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3. DEPUTIZE, IN WRITING, ANY QUALIFIED OFFICER OR EMPLOYEE IN THE ADMINISTRATION TO PERFORM ANY ACT THAT THE DIRECTOR BY LAW IS EMPOWERED TO DO OR CHARGED WITH THE RESPONSIBILITY OF DOING, INCLUDING THE AUTHORITY TO ISSUE FINAL ADMINISTRATIVE DECISIONS PURSUANT TO SECTION 41-1092.08.

G. The director shall adopt rules which further specify the medical care and hospital services which are covered by the system pursuant to section 36-2907.

H. In addition to the rules otherwise specified in this article, the director may adopt necessary rules pursuant to title 41, chapter 6 to carry out this article. Rules adopted by the director pursuant to this subsection shall consider the differences between rural and urban conditions on the delivery of hospitalization and medical care.

I. For inpatient hospital admissions and all outpatient hospital services before March 1, 1993, the administration shall reimburse a hospital's adjusted billed charges according to the following procedures:

1. The director shall adopt rules which, for services rendered from and after September 30, 1985 until October 1, 1986, define "adjusted billed charges" as that reimbursement level which has the effect of holding constant whichever of the following is applicable:

(a) The schedule of rates and charges for a hospital in effect on April 1, 1984 as filed pursuant to chapter 4, article 3 of this title.

(b) The schedule of rates and charges for a hospital which became effective after May 31, 1984 but ~~prior to~~ BEFORE July 2, 1984, if the hospital's previous rate schedule became effective ~~prior to~~ BEFORE April 30, 1983.

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(c) The schedule of rates and charges for a hospital which became effective after May 31, 1984 but ~~prior to~~ BEFORE July 2, 1984, limited to five per cent over the hospital's previous rate schedule, and if the hospital's previous rate schedule became effective on or after April 30, 1983 but ~~prior to~~ BEFORE October 1, 1983. For the purposes of this paragraph "constant" means equal to or lower than.

2. The director shall adopt rules which, for services rendered from and after September 30, 1986, define "adjusted billed charges" as that

reimbursement level which has the effect of increasing by four per cent a hospital's reimbursement level in effect on October 1, 1985 as prescribed in paragraph 1 of this subsection. Beginning January 1, 1991, the Arizona health care cost containment system administration shall define "adjusted billed charges" as the reimbursement level determined pursuant to this section, increased by two and one-half per cent.

3. In no event shall a hospital's adjusted billed charges exceed the hospital's schedule of rates and charges filed with the department of health services and in effect pursuant to chapter 4, article 3 of this title.

4. For services rendered the administration shall not pay a hospital's adjusted billed charges in excess of the following:

(a) If the hospital's bill is paid within thirty days of the date the bill was received, eighty-five per cent of the adjusted billed charges.

(b) If the hospital's bill is paid any time after thirty days but within sixty days of the date the bill was received, ninety-five per cent of the adjusted billed charges.

(c) If the hospital's bill is paid any time after sixty days of the date the bill was received, one hundred per cent of the adjusted billed charges.

5. The director shall define by rule the method of determining when a hospital bill will be considered received and when a hospital's billed charges will be considered paid. Payment received by a hospital from the administration pursuant to this subsection or from a provider either by contract or pursuant to section 36-2904, subsection K shall be considered payment of the hospital bill in full, except that a hospital may collect any unpaid portion of its bill from other third party payors or in situations covered by title 33, chapter 7, article 3.

J. For inpatient hospital admissions and outpatient hospital services on and after March 1, 1993 the administration shall adopt rules for the reimbursement of hospitals according to the following procedures:

1. For inpatient hospital stays, the administration shall use a prospective tiered per diem methodology, using hospital peer groups if analysis shows that cost differences can be attributed to independently definable features that hospitals within a peer group share. In peer grouping the administration may consider such factors as length of stay differences and labor market variations. If there are no cost differences, the administration shall implement a stop loss-stop gain or similar mechanism. Any stop loss-stop gain or similar mechanism shall ensure that the tiered per diem rates assigned to a hospital do not represent less than ninety per cent of its 1990 base year costs or more than one hundred ten per cent of its 1990 base year costs, adjusted by an audit factor, during the period of March 1, 1993 through September 30, 1994. The tiered per diem rates set for hospitals shall represent no less than eighty-seven and one-half per cent or more than one hundred twelve and one-half per cent of its 1990 base year costs, adjusted by an audit factor, from October 1, 1994 through September 30, 1995 and no less than eighty-five per cent or more than one hundred fifteen per cent of its 1990 base year costs, adjusted by an audit factor, from October 1, 1995 through September 30, 1996. For the periods after September 30, 1996 no stop loss-stop gain or similar mechanisms

shall be in effect. An adjustment in the stop loss-stop gain percentage may be made to ensure that total payments do not increase as a result of this provision. If peer groups are used the administration shall establish initial peer group designations for each hospital before implementation of the per diem system. The administration may also use a negotiated rate methodology. The tiered per diem methodology may include separate consideration for specialty hospitals which limit their provision of services to specific patient populations, such as rehabilitative patients or children.

Chs. 84 and 96 — The initial per diem rates shall be based ~~upon~~ ON hospital claims and encounter data for dates of service November 1, 1990 through October 31, 1991 and processed through May of 1992.

2. For rates effective on October 1, 1994, and annually thereafter, the administration shall adjust tiered per diem payments for inpatient hospital care by the data resources incorporated market basket index for prospective payment system hospitals. For rates effective beginning on October 1, 1999, the administration shall adjust payments to reflect changes in length of stay for the maternity and nursery tiers.

3. For outpatient hospital services, the administration shall reimburse a hospital by applying a hospital specific outpatient cost-to-charge ratio to the covered charges.

4. Except if submitted under an electronic claims submission system,

Chs. 84 and 96 — a hospital bill is considered received for purposes of this paragraph ~~upon~~ ON initial receipt of the legible, error-free claim form by the administration if the claim includes the following error-free documentation in legible form:

(a) An admission face sheet.
(b) An itemized statement.
(c) An admission history and physical.
(d) A discharge summary or an interim summary if the claim is split.
(e) An emergency record, if admission was through the emergency room.
(f) Operative reports, if applicable.
(g) A labor and delivery room report, if applicable.

Payment received by a hospital from the administration pursuant to this subsection or from a provider either by contract or pursuant to section 36-2904, subsection K is considered payment by the administration or the provider of the administration's or provider's liability for the hospital bill. A hospital may collect any unpaid portion of its bill from other third party payors or in situations covered by title 33, chapter 7, article 3.

5. For services rendered on and after October 1, 1997, the administration shall pay a hospital's rate established according to this section subject to the following:

(a) Except for members who are eligible pursuant to section 36-2901, paragraph 4, subdivisions (a), (c), (h) and (j), if the hospital's bill is paid within thirty days of the date the bill was received, the administration shall pay ninety-nine per cent of the rate.

(b) If the hospital's bill is paid after thirty days but within sixty days of the date the bill was received, the administration shall pay one hundred per cent of the rate.

(c) If the hospital's bill is paid any time after sixty days of the date the bill was received, the administration shall pay one hundred per cent of the rate plus a fee of one per cent per month for each month or portion of a month following the sixtieth day of receipt of the bill until the date of payment.

6. In developing the reimbursement methodology, if a review of the reports filed by a hospital pursuant to section 36-125.04 indicates that further investigation is considered necessary to verify the accuracy of the information in the reports, the administration may examine the hospital's records and accounts related to the reporting requirements of section 36-125.04. The administration shall bear the cost incurred in connection with this examination unless the administration finds that the records examined are significantly deficient or incorrect, in which case the administration may charge the cost of the investigation to the hospital examined.

7. Except for privileged medical information, the administration shall make available for public inspection the cost and charge data and the calculations used by the administration to determine payments under the tiered per diem system, provided that individual hospitals are not identified by name. The administration shall make the data and calculations available for public inspection during regular business hours and shall provide copies of the data and calculations to individuals requesting such copies within thirty days of receipt of a written request. The administration may charge a reasonable fee for the provision of the data or information.

8. The prospective tiered per diem payment methodology for inpatient hospital services shall include a mechanism for the prospective payment of inpatient hospital capital related costs. The capital payment shall include hospital specific and statewide average amounts. For tiered per diem rates beginning on October 1, 1999, the capital related cost component is frozen at the blended rate of forty per cent of the hospital specific capital cost and sixty per cent of the statewide average capital cost in effect as of January 1, 1999 and as further adjusted by the calculation of tier rates for maternity and nursery as prescribed by law. The administration shall adjust the capital related cost component by the data resources incorporated market basket index for prospective payment system hospitals.

9. Beginning September 30, 1997, the administration shall establish a separate graduate medical education program to reimburse hospitals that had graduate medical education programs that were approved by the administration as of October 1, 1999. The administration shall separately account for monies for the graduate medical education program based on the total reimbursement for graduate medical education reimbursed to hospitals by the system in federal fiscal year 1995-1996 pursuant to the tiered per diem methodology specified in this section. The graduate medical education program reimbursement shall be adjusted annually by the increase or decrease in the index published by the data resources incorporated hospital market basket index for prospective hospital reimbursement. Subject to legislative appropriation, on an annual basis, each qualified hospital shall receive a single payment from the graduate medical education program that is equal to the same percentage of graduate medical education reimbursement that was paid

by the system in federal fiscal year 1995-1996. Any reimbursement for graduate medical education made by the administration shall not be subject to future settlements or appeals by the hospitals to the administration.

10. The prospective tiered per diem payment methodology for inpatient hospital services may include a mechanism for the payment of claims with extraordinary operating costs per day. For tiered per diem rates effective beginning on October 1, 1999, outlier cost thresholds are frozen at the levels in effect on January 1, 1999 and adjusted annually by the administration by the data resources incorporated market basket index for prospective payment system hospitals.

Ch. 96 — 11. NOTWITHSTANDING SECTION 41-1005, SUBSECTION A, PARAGRAPH 9, THE ADMINISTRATION SHALL ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6 ESTABLISHING THE METHODOLOGY FOR DETERMINING THE PROSPECTIVE TIERED PER DIEM PAYMENTS.

K. The director may adopt rules which specify enrollment procedures including notice to providers of enrollment. The rules may provide for varying time limits for enrollment in different situations. The rules shall provide for continuous enrollment of a pregnant woman who is determined eligible pursuant to section 11-297 or 36-2905 and whose condition of pregnancy is clinically verified in writing by a health care professional licensed pursuant to title 32, chapter 13, 15, 17 or 25 or chapter 6, article 7 of this title until the last day of the month after the month of the estimated date of delivery. The rules shall provide that as a condition of continuous enrollment pursuant to this subsection the woman must notify her county of residence and provide necessary verification of her pregnancy and estimated date of delivery before the end of her certification period. The rules shall specify the procedures by which the county shall notify the administration that a pregnant woman qualifies for continuous enrollment and shall specify procedures for the pregnant woman to notify the county of any change in her financial or clinical status that might disqualify her from continuous enrollment pursuant to this subsection. Pursuant to rules adopted by the director, a child born to a woman under continuous enrollment shall also be enrolled until the last day of the month after the month of the estimated date of delivery. This subsection does not prevent a person from qualifying for continued eligibility as otherwise provided in section 11-297 or this article. The administration shall specify in contract when a person who has been determined eligible will be enrolled with that provider and the date on which the provider will be financially responsible for health and medical services to the person.

L. The administration may make direct payments to hospitals for hospitalization and medical care provided to a member in accordance with the provisions of this article and rules. The director may adopt rules which shall establish the procedures by which the administration shall pay hospitals pursuant to this subsection if a provider fails to make timely payment to a hospital. Such payment shall be at a level determined pursuant to section 36-2904, subsection J or K. The director may withhold payment due to a provider in the amount of any payment made directly to a hospital by the administration on behalf of a provider pursuant to this subsection.

M. The director shall establish a special unit within the administration for the purpose of monitoring the third party payment

collections required by providers and nonproviders pursuant to section 36-2903, subsection C, paragraph 10 and subsection G and section 36-2915, subsection E. The director shall determine by rule:

1. The type of third party payments to be monitored pursuant to this subsection.

2. The percentage of third party payments collected by a provider or nonprovider which the provider or nonprovider may keep and the percentage of such payments which the provider or nonprovider may be required to pay to the administration. Both providers and nonproviders are required to pay to the administration one hundred per cent of all third party payments collected which duplicate administration fee-for-service payments. A provider that contracts with the administration pursuant to section 36-2904, subsection A may be entitled to retain a percentage of third party payments if the payments collected and retained by a provider are reflected in reduced capitation rates. A provider may be required to pay the administration a percentage of third party payments collected by a provider that are not reflected in reduced capitation rates.

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N. ~~Upon~~ ON oral or written notice from the patient that the patient believes the claims to be covered by the system, a provider or nonprovider of health and medical services prescribed in section 36-2907 shall not do either of the following unless the provider or nonprovider has verified through the administration that the person has been determined ineligible, has not yet been determined eligible or was not, at the time services were rendered, eligible or enrolled:

1. Charge, submit a claim to or demand or otherwise collect payment from a member or person who has been determined eligible unless specifically authorized by this article or rules adopted pursuant to this article.

2. Refer or report a member or person who has been determined eligible to a collection agency or credit reporting agency for the failure of the member or person who has been determined eligible to pay charges for system covered care or services unless specifically authorized by this article or rules adopted pursuant to this article.

O. The administration may conduct postpayment review of all claims paid by the administration and may recoup any monies erroneously paid. The director may adopt rules that specify procedures for conducting postpayment review. Prepaid capitated providers may conduct a postpayment review of all claims paid by prepaid capitated providers and may recoup monies that are erroneously paid.

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P. The director or ~~his~~ THE DIRECTOR'S designees may employ and supervise personnel necessary to assist the director in performing the functions of the administration.

Q. The administration may contract with providers for obstetrical care who are eligible to provide services under title XIX of the social security act.

R. Notwithstanding any law to the contrary, on federal approval the administration may make disproportionate share payments to hospitals beginning October 1, 1991 in accordance with federal law and subject to legislative appropriation. If at any time the administration receives written notification from federal authorities of any change or difference in

the actual or estimated amount of federal funds available for disproportionate share payments from the amount reflected in the legislative appropriation for such purposes, the administration shall provide written notification of such change or difference to the president and the minority leader of the senate, the speaker and the minority leader of the house of representatives, the director of the joint legislative budget committee, the legislative committee of reference, public hospitals receiving disproportionate share payments and any hospital trade association within this state, within three working days not including weekends after receipt of the notice of the change or difference. In calculating disproportionate share payments as prescribed in this section, the administration may use either a methodology based on claims and encounter data that is submitted to the administration from prepaid capitated providers or a methodology based on data that is reported to the administration by hospitals. The selected methodology applies to all hospitals qualifying for disproportionate share payments.

~~S. Notwithstanding any law to the contrary, the administration may receive confidential adoption information for the purposes of identifying adoption related third party payors in order to recover the total costs for prenatal care and the delivery of the child, including capitation, reinsurance and any fee-for-service costs incurred by the administration on behalf of an eligible person who the administration has reason to believe had an arrangement to have the eligible person's newborn adopted. Except for the sole purpose of identifying adoption related third party payors, the administration shall not further disclose any information obtained pursuant to this subsection and shall develop and implement safeguards to protect the confidentiality of this information including limiting access to the information to only those administration personnel whose official duties require it. At no time shall the administration release to the adoptive parents' or birth parents' insurance carrier personally identifying information regarding the other party. A person who knowingly violates the requirements of this subsection pertaining to confidentiality is guilty of a class 6 felony.~~

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S. NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE ADMINISTRATION MAY RECEIVE CONFIDENTIAL ADOPTION INFORMATION TO DETERMINE WHETHER AN ADOPTED CHILD SHOULD BE TERMINATED FROM THE SYSTEM.

T. The adoption agency or the adoption attorney shall notify the administration within thirty days after an eligible person receiving services has placed that person's child for adoption.

~~U. The administration shall not seek maternity expenditure cost recovery from a third party payor on arrangements involving the placement of a newborn with special needs as defined in section 8-141, children in the custody of the state or children placed with relatives.~~

~~V.~~ U. If the administration implements an electronic claims submission system it may adopt procedures pursuant to subsection J of this section requiring documentation different than prescribed under subsection J, paragraph 4 of this section.

EXPLANATION OF BLEND
SECTION 36-2903.01

Laws 2001, Chapters 84, 96 and 344

Laws 2001, Ch. 84, section 2	Effective August 9
Laws 2001, Ch. 96, section 1	Effective August 9
Laws 2001, Ch. 344, section 39	Conditionally effective

Explanation

Since these three enactments are not incompatible, the Laws 2001, Ch. 84, Ch. 96 and Ch. 344 text changes to section 36-2903.01 are blended in the form shown on the following pages.

The Laws 2001, Ch. 96 version made a conforming change in subsection B, paragraph 4. The Ch. 344 version struck the language in which this change was made. Since this change would not produce a substantive change, the blend version reflects the Ch. 344 version.

The publisher will print this blend version pending the occurrence of the condition stated in Laws 2001, Ch. 344. If the condition does not occur before October 1, 2001, Laws 2001, Ch. 344 does not become effective and the publisher will delete this blend version of section 36-2903.01.

BLEND OF SECTION 36-2903.01
Laws 2001, Chapters 84, 96 and 344

36-2903.01. Additional powers and duties

A. The director OF THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION may adopt rules ~~which~~ THAT provide that the system may withhold or forfeit payments to be made to a ~~nonprovider~~ NONCONTRACTING PROVIDER by the system if the ~~nonprovider~~ NONCONTRACTING PROVIDER fails to comply with ~~the provisions of~~ this article, THE PROVIDER AGREEMENT or rules THAT ARE adopted pursuant to this article ~~which~~ AND THAT relate to the specific services rendered for which a claim for payment is made.

B. The director shall:

1. Prescribe uniform forms to be used by all ~~providers and shall prescribe and furnish uniform forms and procedures, including methods of identification of members, to counties to be used for determining and reporting eligibility of members~~ CONTRACTORS. The rules ~~may include requirements that an applicant shall personally complete or assist in the completion of eligibility application forms, except in situations in which~~ SHALL REQUIRE A WRITTEN AND SIGNED APPLICATION BY THE APPLICANT OR AN APPLICANT'S AUTHORIZED REPRESENTATIVE, OR, IF the person is ~~disabled~~ INCOMPETENT OR INCAPACITATED, A FAMILY MEMBER OR A PERSON ACTING RESPONSIBLY FOR THE APPLICANT MAY OBTAIN A SIGNATURE OR A REASONABLE FACSIMILE AND FILE THE APPLICATION AS PRESCRIBED BY THE ADMINISTRATION. ~~The auditor general shall make recommendations to the director regarding the format of forms in order to ensure that the system records are readily available.~~

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2. Enter into an interagency agreement with the department ~~of economic security or Arizona works agency established by title 46, chapter 2, article 9 under which the department of economic security or Arizona works agency established by title 46, chapter 2, article 9 shall be required~~ to ESTABLISH A STREAMLINED ELIGIBILITY PROCESS TO determine the eligibility of all persons defined pursuant to section 36-2901, paragraph ~~4~~ 6, subdivision ~~(b)~~ (a) ~~and ensure that the eligibility process is designed to maximize the enrollment of such persons with the county of residence~~. At the administration's option, the interagency agreement may allow the administration to determine the eligibility of certain persons including those defined pursuant to section 36-2901, paragraph ~~4~~ 6, subdivision ~~(b)~~ (a). ~~As part of the agreement, the administration shall~~

3. ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE DEPARTMENT TO:

(a) ESTABLISH AN EXPEDITED ELIGIBILITY AND ENROLLMENT PROCESS FOR ALL PERSONS WHO ARE HOSPITALIZED AT THE TIME OF APPLICATION.

(b) ESTABLISH PERFORMANCE MEASURES AND INCENTIVES FOR THE DEPARTMENT.

(c) ESTABLISH THE PROCESS FOR MANAGEMENT EVALUATION REVIEWS THAT THE ADMINISTRATION SHALL PERFORM TO EVALUATE THE ELIGIBILITY DETERMINATION FUNCTIONS PERFORMED BY THE DEPARTMENT.

(d) ESTABLISH ELIGIBILITY QUALITY CONTROL REVIEWS BY THE ADMINISTRATION.

(e) REQUIRE THE DEPARTMENT TO ADOPT RULES, CONSISTENT WITH THE RULES ADOPTED BY THE ADMINISTRATION FOR A HEARING PROCESS, THAT APPLICANTS OR MEMBERS MAY USE FOR APPEALS OF ELIGIBILITY DETERMINATIONS OR REDETERMINATIONS.

(f) ESTABLISH THE DEPARTMENT'S RESPONSIBILITY TO PLACE SUFFICIENT ELIGIBILITY WORKERS AT FEDERALLY QUALIFIED HEALTH CENTERS TO SCREEN FOR ELIGIBILITY AND AT HOSPITAL SITES AND LEVEL ONE TRAUMA CENTERS TO ENSURE THAT PERSONS SEEKING HOSPITAL SERVICES ARE SCREENED ON A TIMELY BASIS FOR ELIGIBILITY FOR THE SYSTEM, INCLUDING A PROCESS TO ENSURE THAT APPLICATIONS FOR THE SYSTEM CAN BE ACCEPTED ON A TWENTY-FOUR HOUR BASIS, SEVEN DAYS A WEEK.

(g) WITHHOLD PAYMENTS BASED ON THE ALLOWABLE SANCTIONS FOR ERRORS IN ELIGIBILITY DETERMINATIONS OR REDETERMINATIONS OR FAILURE TO MEET PERFORMANCE MEASURES REQUIRED BY THE INTERGOVERNMENTAL AGREEMENT.

(h) Recoup from the department ~~of economic security or Arizona works agency~~ all federal fiscal sanctions that result from the ~~department of economic security's or Arizona works agency's~~ DEPARTMENT'S inaccurate eligibility determinations ~~for these persons~~. THE DIRECTOR MAY OFFSET ALL OR PART OF A SANCTION IF THE DEPARTMENT SUBMITS A CORRECTIVE ACTION PLAN AND A STRATEGY TO REMEDY THE ERROR. Ch. 344

~~3. Enter into an interagency agreement with the department of economic security or Arizona works agency established by title 46, chapter 2, article 9 which shall require the department of economic security or Arizona works agency established by title 46, chapter 2, article 9 to notify the administration of persons determined eligible for the federal food stamp program (P.L. 95-113; 91 Stat. 958-979) for the purpose of determining eligibility for the system pursuant to section 36-2905.03.~~

4. By rule establish a procedure and time frames for the intake of grievances and [~~appeals~~ REQUESTS FOR HEARINGS], for the continuation of benefits and services during the appeal process~~, for the informal resolution of grievances and appeals~~ and for a grievance process at the contractor level. NOTWITHSTANDING SECTIONS 41-1092.02, 41-1092.03 AND 41-1092.05, THE ADMINISTRATION SHALL DEVELOP RULES TO ESTABLISH THE PROCEDURE AND TIME FRAME FOR THE INFORMAL RESOLUTION OF GRIEVANCES AND APPEALS. [~~With the exception of grievances filed pursuant to section 36-2904, subsection H,~~ A grievance THAT IS NOT RELATED TO A CLAIM FOR PAYMENT OF SYSTEM COVERED SERVICES shall be filed in writing with and received by the administration OR THE PREPAID CAPITATED PROVIDER OR PROGRAM CONTRACTOR not later than sixty days after the date of the adverse action, decision or policy implementation being grieved. A GRIEVANCE THAT IS RELATED TO A CLAIM FOR PAYMENT OF SYSTEM COVERED SERVICES MUST BE FILED IN WRITING AND RECEIVED BY THE ADMINISTRATION OR THE PREPAID CAPITATED PROVIDER OR PROGRAM CONTRACTOR WITHIN TWELVE MONTHS AFTER THE DATE OF SERVICE, WITHIN TWELVE MONTHS AFTER THE DATE THAT ELIGIBILITY IS POSTED OR WITHIN SIXTY DAYS AFTER THE DATE OF THE DENIAL OF A TIMELY CLAIM SUBMISSION, WHICHEVER IS LATER. A GRIEVANCE FOR THE DENIAL OF A CLAIM FOR REIMBURSEMENT OF SERVICES MAY CONTEST THE VALIDITY OF ANY ADVERSE ACTION, DECISION, POLICY IMPLEMENTATION OR RULE THAT RELATED TO OR RESULTED IN THE FULL OR PARTIAL DENIAL OF THE CLAIM. A policy implementation may be subject to a grievance procedure, but it may not be appealed for a hearing. The Ch. 96 Ch. 96

administration is not required to participate in a mandatory settlement conference if it is not a real party in interest. In any proceeding before the administration, including a grievance or ~~appeal tribunal~~ HEARING], persons may represent themselves or be represented by a duly authorized agent who is not charging a fee. A legal entity may be represented by an officer, partner or employee who is specifically authorized by the legal entity to represent it in the particular proceeding. Ch. 96

5. Apply for and accept federal funds available under title XIX of the social security act (P.L. 89-97; 79 Stat. 344; 42 United States Code section 1396 (1980)) in support of the system. The application made by the director pursuant to this paragraph shall be designed to qualify for federal funding primarily on a prepaid capitated basis. Such funds may be used only for the support of persons defined as eligible pursuant to title XIX of the social security act ~~(P.L. 89-97; 79 Stat. 344; 42 United States Code section 1396 (1980))~~ OR THE APPROVED SECTION 1115 WAIVER. Ch. 344

6. At least thirty days before the implementation of a policy or a change to an existing policy relating to reimbursement, provide notice to interested parties. Parties interested in receiving notification of policy changes shall submit a written request for notification to the administration.

C. The director is authorized to apply for any federal funds available for the support of programs to investigate and prosecute violations arising from the administration and operation of the system. Available state funds appropriated for the administration and operation of the system may be used as matching funds to secure federal funds pursuant to this subsection.

~~D. The director shall adopt rules for use by the counties in determining whether an applicant is a resident of this state and of the county and is either a United States citizen, a qualified alien as prescribed in section 36-2903.03 or eligible for state assisted emergency care under section 36-2905.05. The rules shall require that state residency is not established unless the requirements of paragraphs 1 and 2 of this subsection are met or unless residency is proved pursuant to paragraph 3 of this subsection:~~

~~1. The applicant produces one of the following:~~

~~(a) A recent Arizona rent or mortgage receipt or utility bill.~~

~~(b) A current Arizona motor vehicle driver license.~~ Ch. 344

~~(c) A current Arizona motor vehicle registration.~~

~~(d) A document showing that the applicant is employed in this state.~~

~~(e) A document showing that the applicant has registered with a public or private employment service in this state.~~

~~(f) Evidence that the applicant has enrolled the applicant's children in a school in this state.~~

~~(g) Evidence that the applicant is receiving public assistance in this state.~~

~~(h) Evidence of registration to vote in this state.~~

~~2. The applicant signs an affidavit attesting that all of the following apply to the applicant:~~

~~(a) The applicant does not own or lease a residence outside this state.~~

~~(b) The applicant does not own or lease a motor vehicle registered outside this state.~~

~~(c) The applicant is not receiving public assistance outside this state. As used in this subdivision, "public assistance" does not include unemployment insurance benefits.~~

~~(d) The applicant is actively seeking employment in this state if he is able to work and is not employed.~~

~~3. An applicant who does not meet the requirements of paragraph 1 or 2 of this subsection may apply to have residency determined by a special eligibility officer who shall be appointed by the county board of supervisors. The special eligibility officer shall receive any proof of residency offered by the applicant and may inquire into any facts relevant to the question of residency. A determination of residency shall not be granted unless a preponderance of the credible evidence supports the applicant's intent to remain indefinitely in this state. A denial of a determination of residency may be appealed in the same manner as any other denial of eligibility for the system.~~

~~4. An applicant who has relocated to this state from another state or foreign country within six months before the date of application for the purpose of obtaining state assisted medical care pursuant to this article shall have the applicant's residency determined by a special eligibility officer appointed pursuant to paragraph 3 of this subsection. The special eligibility officer shall require, at a minimum, compliance with paragraphs 1 and 2 of this subsection. The special eligibility officer shall also receive any additional proof of residency offered by the applicant and may inquire into any facts relevant to the question of residency. A determination of residency shall not be made unless a preponderance of the credible evidence supports the applicant's intent to remain indefinitely in this state. A denial of the determination of residency may be appealed in the same manner as any other denial of eligibility for the system.~~ Ch. 344

~~E. In accordance with constitutional standards and pursuant to subsection D of this section, the director of the department of economic security shall establish and maintain residency standards for those public benefit programs related to eligibility in the system which are equivalent to those residency standards established for the purposes of this article.~~

~~F.~~ D. The director may adopt rules [OR PROCEDURES] to do the following: Ch. 96

1. Authorize advance payments based on estimated liability to a ~~provider~~ CONTRACTOR or a ~~nonprovider~~ NONCONTRACTING PROVIDER after the ~~provider~~ CONTRACTOR or ~~nonprovider~~ NONCONTRACTING PROVIDER has submitted a claim for services and before the claim is ultimately resolved. The rules shall specify that any advance payment shall be conditioned on the execution [~~prior to~~ BEFORE] payment of a contract with the ~~provider~~ CONTRACTOR or ~~nonprovider which~~ NONCONTRACTING PROVIDER THAT requires the administration to retain a specified percentage, which shall be at least twenty per cent, of the claimed amount as security and ~~which~~ THAT requires repayment to the administration if the administration makes any overpayment. Chs. 84, 96 and 344

2. Defer liability, in whole or in part, of ~~prepaid capitated contract providers~~ CONTRACTORS for care provided to members who are hospitalized on

Ch. 344 — the date of enrollment or under other circumstances. Payment shall be on a capped fee-for-service basis for services other than hospital services and at the rate established pursuant to subsection ~~I~~ G or ~~J~~ H of this section for hospital services or at the rate paid by the health plan, whichever is less.

Ch. 96 — 3. DEPUTIZE, IN WRITING, ANY QUALIFIED OFFICER OR EMPLOYEE IN THE ADMINISTRATION TO PERFORM ANY ACT THAT THE DIRECTOR BY LAW IS EMPOWERED TO DO OR CHARGED WITH THE RESPONSIBILITY OF DOING, INCLUDING THE AUTHORITY TO ISSUE FINAL ADMINISTRATIVE DECISIONS PURSUANT TO SECTION 41-1092.08.

~~G.~~ E. The director shall adopt rules which further specify the medical care and hospital services which are covered by the system pursuant to section 36-2907.

~~H.~~ F. In addition to the rules otherwise specified in this article, the director may adopt necessary rules pursuant to title 41, chapter 6 to carry out this article. Rules adopted by the director pursuant to this subsection shall consider the differences between rural and urban conditions on the delivery of hospitalization and medical care.

~~I.~~ G. For inpatient hospital admissions and all outpatient hospital services before March 1, 1993, the administration shall reimburse a hospital's adjusted billed charges according to the following procedures:

Ch. 344 — 1. The director shall adopt rules ~~which~~ THAT, for services rendered from and after September 30, 1985 until October 1, 1986, define "adjusted billed charges" as that reimbursement level ~~which~~ THAT has the effect of holding constant whichever of the following is applicable:

(a) The schedule of rates and charges for a hospital in effect on April 1, 1984 as filed pursuant to chapter 4, article 3 of this title.

Chs. 84, 96 and 344 — (b) The schedule of rates and charges for a hospital ~~which~~ THAT became effective after May 31, 1984 but ~~prior to~~ BEFORE July 2, 1984, if the hospital's previous rate schedule became effective ~~prior to~~ BEFORE April 30, 1983.

Ch. 344 — (c) The schedule of rates and charges for a hospital ~~which~~ THAT became effective after May 31, 1984 but ~~prior to~~ BEFORE July 2, 1984, limited to five per cent over the hospital's previous rate schedule, and if the hospital's previous rate schedule became effective on or after April 30, 1983 but ~~prior to~~ BEFORE October 1, 1983. For the purposes of this paragraph "constant" means equal to or lower than.

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Ch. 344 — 2. The director shall adopt rules ~~which~~ THAT, for services rendered from and after September 30, 1986, define "adjusted billed charges" as that reimbursement level ~~which~~ THAT has the effect of increasing by four per cent a hospital's reimbursement level in effect on October 1, 1985 as prescribed in paragraph 1 of this subsection. Beginning January 1, 1991, the Arizona health care cost containment system administration shall define "adjusted billed charges" as the reimbursement level determined pursuant to this section, increased by two and one-half per cent.

3. In no event shall a hospital's adjusted billed charges exceed the hospital's schedule of rates and charges filed with the department of health services and in effect pursuant to chapter 4, article 3 of this title.

4. For services rendered the administration shall not pay a hospital's adjusted billed charges in excess of the following:

(a) If the hospital's bill is paid within thirty days of the date the bill was received, eighty-five per cent of the adjusted billed charges.

(b) If the hospital's bill is paid any time after thirty days but within sixty days of the date the bill was received, ninety-five per cent of the adjusted billed charges.

(c) If the hospital's bill is paid any time after sixty days of the date the bill was received, one hundred per cent of the adjusted billed charges.

5. The director shall define by rule the method of determining when a hospital bill will be considered received and when a hospital's billed charges will be considered paid. Payment received by a hospital from the administration pursuant to this subsection or from a ~~provider~~ CONTRACTOR either by contract or pursuant to section 36-2904, subsection ~~K~~ J shall be considered payment of the hospital bill in full, except that a hospital may collect any unpaid portion of its bill from other third party payors or in situations covered by title 33, chapter 7, article 3.

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~~J.~~ H. For inpatient hospital admissions and outpatient hospital services on and after March 1, 1993 the administration shall adopt rules for the reimbursement of hospitals according to the following procedures:

1. For inpatient hospital stays, the administration shall use a prospective tiered per diem methodology, using hospital peer groups if analysis shows that cost differences can be attributed to independently definable features that hospitals within a peer group share. In peer grouping the administration may consider such factors as length of stay differences and labor market variations. If there are no cost differences, the administration shall implement a stop loss-stop gain or similar mechanism. Any stop loss-stop gain or similar mechanism shall ensure that the tiered per diem rates assigned to a hospital do not represent less than ninety per cent of its 1990 base year costs or more than one hundred ten per cent of its 1990 base year costs, adjusted by an audit factor, during the period of March 1, 1993 through September 30, 1994. The tiered per diem rates set for hospitals shall represent no less than eighty-seven and one-half per cent or more than one hundred twelve and one-half per cent of its 1990 base year costs, adjusted by an audit factor, from October 1, 1994 through September 30, 1995 and no less than eighty-five per cent or more than one hundred fifteen per cent of its 1990 base year costs, adjusted by an audit factor, from October 1, 1995 through September 30, 1996. For the periods after September 30, 1996 no stop loss-stop gain or similar mechanisms shall be in effect. An adjustment in the stop loss-stop gain percentage may be made to ensure that total payments do not increase as a result of this provision. If peer groups are used the administration shall establish initial peer group designations for each hospital before implementation of the per diem system. The administration may also use a negotiated rate methodology. The tiered per diem methodology may include separate consideration for specialty hospitals ~~which~~ THAT limit their provision of services to specific patient populations, such as rehabilitative patients or children. The initial per diem rates shall be based ~~upon~~ ON hospital claims and encounter data for dates of service November 1, 1990 through October 31, 1991 and processed through May of 1992.

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2. For rates effective on October 1, 1994, and annually thereafter, the administration shall adjust tiered per diem payments for inpatient hospital care by the data resources incorporated market basket index for prospective payment system hospitals. For rates effective beginning on October 1, 1999, the administration shall adjust payments to reflect changes in length of stay for the maternity and nursery tiers.

3. For outpatient hospital services, the administration shall reimburse a hospital by applying a hospital specific outpatient cost-to-charge ratio to the covered charges.

Chs. 84 and 96

4. Except if submitted under an electronic claims submission system, a hospital bill is considered received for purposes of this paragraph ~~upon~~ ON initial receipt of the legible, error-free claim form by the administration if the claim includes the following error-free documentation in legible form:

(a) An admission face sheet.

(b) An itemized statement.

(c) An admission history and physical.

(d) A discharge summary or an interim summary if the claim is split.

(e) An emergency record, if admission was through the emergency room.

(f) Operative reports, if applicable.

(g) A labor and delivery room report, if applicable.

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Payment received by a hospital from the administration pursuant to this subsection or from a ~~provider~~ CONTRACTOR either by contract or pursuant to section 36-2904, subsection ~~K~~ J is considered payment by the administration or the ~~provider~~ CONTRACTOR of the administration's or ~~provider's~~ CONTRACTOR'S liability for the hospital bill. A hospital may collect any unpaid portion of its bill from other third party payors or in situations covered by title 33, chapter 7, article 3.

5. For services rendered on and after October 1, 1997, the administration shall pay a hospital's rate established according to this section subject to the following:

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(a) ~~Except for members who are eligible pursuant to section 36-2901, paragraph 4, subdivisions (a), (c), (h) and (j),~~ If the hospital's bill is paid within thirty days of the date the bill was received, the administration shall pay ninety-nine per cent of the rate.

(b) If the hospital's bill is paid after thirty days but within sixty days of the date the bill was received, the administration shall pay one hundred per cent of the rate.

(c) If the hospital's bill is paid any time after sixty days of the date the bill was received, the administration shall pay one hundred per cent of the rate plus a fee of one per cent per month for each month or portion of a month following the sixtieth day of receipt of the bill until the date of payment.

6. In developing the reimbursement methodology, if a review of the reports filed by a hospital pursuant to section 36-125.04 indicates that further investigation is considered necessary to verify the accuracy of the information in the reports, the administration may examine the hospital's records and accounts related to the reporting requirements of section 36-125.04. The administration shall bear the cost incurred in connection

with this examination unless the administration finds that the records examined are significantly deficient or incorrect, in which case the administration may charge the cost of the investigation to the hospital examined.

7. Except for privileged medical information, the administration shall make available for public inspection the cost and charge data and the calculations used by the administration to determine payments under the tiered per diem system, provided that individual hospitals are not identified by name. The administration shall make the data and calculations available for public inspection during regular business hours and shall provide copies of the data and calculations to individuals requesting such copies within thirty days of receipt of a written request. The administration may charge a reasonable fee for the provision of the data or information.

8. The prospective tiered per diem payment methodology for inpatient hospital services shall include a mechanism for the prospective payment of inpatient hospital capital related costs. The capital payment shall include hospital specific and statewide average amounts. For tiered per diem rates beginning on October 1, 1999, the capital related cost component is frozen at the blended rate of forty per cent of the hospital specific capital cost and sixty per cent of the statewide average capital cost in effect as of January 1, 1999 and as further adjusted by the calculation of tier rates for maternity and nursery as prescribed by law. The administration shall adjust the capital related cost component by the data resources incorporated market basket index for prospective payment system hospitals.

9. Beginning September 30, 1997, the administration shall establish a separate graduate medical education program to reimburse hospitals that had graduate medical education programs that were approved by the administration as of October 1, 1999. The administration shall separately account for monies for the graduate medical education program based on the total reimbursement for graduate medical education reimbursed to hospitals by the system in federal fiscal year 1995-1996 pursuant to the tiered per diem methodology specified in this section. The graduate medical education program reimbursement shall be adjusted annually by the increase or decrease in the index published by the data resources incorporated hospital market basket index for prospective hospital reimbursement. Subject to legislative appropriation, on an annual basis, each qualified hospital shall receive a single payment from the graduate medical education program that is equal to the same percentage of graduate medical education reimbursement that was paid by the system in federal fiscal year 1995-1996. Any reimbursement for graduate medical education made by the administration shall not be subject to future settlements or appeals by the hospitals to the administration.

10. The prospective tiered per diem payment methodology for inpatient hospital services may include a mechanism for the payment of claims with extraordinary operating costs per day. For tiered per diem rates effective beginning on October 1, 1999, outlier cost thresholds are frozen at the levels in effect on January 1, 1999 and adjusted annually by the administration by the data resources incorporated market basket index for prospective payment system hospitals.

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11. NOTWITHSTANDING SECTION 41-1005, SUBSECTION A, PARAGRAPH 9, THE ADMINISTRATION SHALL ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6 ESTABLISHING THE METHODOLOGY FOR DETERMINING THE PROSPECTIVE TIERED PER DIEM PAYMENTS.

~~K.~~ I. The director may adopt rules ~~which~~ THAT specify enrollment procedures including notice to ~~providers~~ CONTRACTORS of enrollment. The rules may provide for varying time limits for enrollment in different situations. ~~The rules shall provide for continuous enrollment of a pregnant woman who is determined eligible pursuant to section 11-297 or 36-2905 and whose condition of pregnancy is clinically verified in writing by a health care professional licensed pursuant to title 32, chapter 13, 15, 17 or 25 or chapter 6, article 7 of this title until the last day of the month after the month of the estimated date of delivery. The rules shall provide that as a condition of continuous enrollment pursuant to this subsection the woman must notify her county of residence and provide necessary verification of her pregnancy and estimated date of delivery before the end of her certification period. The rules shall specify the procedures by which the county shall notify the administration that a pregnant woman qualifies for continuous enrollment and shall specify procedures for the pregnant woman to notify the county of any change in her financial or clinical status that might disqualify her from continuous enrollment pursuant to this subsection. Pursuant to rules adopted by the director, a child born to a woman under continuous enrollment shall also be enrolled until the last day of the month after the month of the estimated date of delivery. This subsection does not prevent a person from qualifying for continued eligibility as otherwise provided in section 11-297 or this article.~~ The administration shall specify in contract when a person who has been determined eligible will be enrolled with that ~~provider~~ CONTRACTOR and the date on which the ~~provider~~ CONTRACTOR will be financially responsible for health and medical services to the person.

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~~L.~~ J. The administration may make direct payments to hospitals for hospitalization and medical care provided to a member in accordance with ~~the provisions of~~ this article and rules. The director may adopt rules ~~which shall~~ TO establish the procedures by which the administration shall pay hospitals pursuant to this subsection if a ~~provider~~ CONTRACTOR fails to make timely payment to a hospital. Such payment shall be at a level determined pursuant to section 36-2904, subsection ~~J~~ I or ~~K~~ J. The director may withhold payment due to a ~~provider~~ CONTRACTOR in the amount of any payment made directly to a hospital by the administration on behalf of a ~~provider~~ CONTRACTOR pursuant to this subsection.

~~M.~~ K. The director shall establish a special unit within the administration for the purpose of monitoring the third party payment collections required by ~~providers~~ CONTRACTORS and ~~nonproviders~~ NONCONTRACTING PROVIDERS pursuant to section 36-2903, subsection ~~C~~ B, paragraph 10 and subsection ~~G~~ F and section 36-2915, subsection E. The director shall determine by rule:

1. The type of third party payments to be monitored pursuant to this subsection.

2. The percentage of third party payments THAT IS collected by a ~~provider~~ CONTRACTOR or ~~nonprovider which~~ NONCONTRACTING PROVIDER AND THAT the

~~provider~~ CONTRACTOR or ~~nonprovider~~ NONCONTRACTING PROVIDER may keep and the percentage of such payments ~~which~~ THAT the ~~provider~~ CONTRACTOR or ~~nonprovider~~ NONCONTRACTING PROVIDER may be required to pay to the administration. ~~Both providers and nonproviders are required to~~ CONTRACTORS AND NONCONTRACTING PROVIDERS MUST pay to the administration one hundred per cent of all third party payments THAT ARE collected ~~which~~ AND THAT duplicate administration fee-for-service payments. A ~~provider~~ CONTRACTOR that contracts with the administration pursuant to section 36-2904, subsection A may be entitled to retain a percentage of third party payments if the payments collected and retained by a ~~provider~~ CONTRACTOR are reflected in reduced capitation rates. A ~~provider~~ CONTRACTOR may be required to pay the administration a percentage of third party payments THAT ARE collected by a ~~provider~~ CONTRACTOR AND that are not reflected in reduced capitation rates.

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~~N.~~ L. ~~Upon~~ ON oral or written notice from the patient that the patient believes the claims to be covered by the system, a ~~provider~~ CONTRACTOR or ~~nonprovider~~ NONCONTRACTING PROVIDER of health and medical services prescribed in section 36-2907 shall not do either of the following unless the ~~provider~~ CONTRACTOR or ~~nonprovider~~ NONCONTRACTING PROVIDER has verified through the administration that the person has been determined ineligible, has not yet been determined eligible or was not, at the time services were rendered, eligible or enrolled:

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1. Charge, submit a claim to or demand or otherwise collect payment from a member or person who has been determined eligible unless specifically authorized by this article or rules adopted pursuant to this article.

2. Refer or report a member or person who has been determined eligible to a collection agency or credit reporting agency for the failure of the member or person who has been determined eligible to pay charges for system covered care or services unless specifically authorized by this article or rules adopted pursuant to this article.

~~O.~~ M. The administration may conduct postpayment review of all claims paid by the administration and may recoup any monies erroneously paid. The director may adopt rules that specify procedures for conducting postpayment review. ~~Prepaid capitated providers~~ A CONTRACTOR may conduct a postpayment review of all claims paid by ~~prepaid capitated providers~~ THE CONTRACTOR and may recoup monies that are erroneously paid.

~~P.~~ N. The director or [~~his~~] ~~designees~~ [THE DIRECTOR'S] DESIGNEE may employ and supervise personnel necessary to assist the director in performing the functions of the administration.

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~~Q.~~ O. The administration may contract with ~~providers~~ CONTRACTORS for obstetrical care who are eligible to provide services under title XIX of the social security act.

~~R.~~ P. Notwithstanding any law to the contrary, on federal approval the administration may make disproportionate share payments to PRIVATE hospitals AND STATE OPERATED INSTITUTIONS FOR MENTAL DISEASE beginning October 1, 1991 in accordance with federal law and subject to legislative appropriation. If at any time the administration receives written notification from federal authorities of any change or difference in the actual or estimated amount of federal funds available for disproportionate share payments from the amount reflected in the legislative appropriation for

such purposes, the administration shall provide written notification of such change or difference to the president and the minority leader of the senate, the speaker and the minority leader of the house of representatives, the director of the joint legislative budget committee, the legislative committee of reference, ~~public hospitals receiving disproportionate share payments~~ and any hospital trade association within this state, within three working days not including weekends after receipt of the notice of the change or difference. In calculating disproportionate share payments as prescribed in this section, the administration may use either a methodology based on claims and encounter data that is submitted to the administration from ~~prepaid capitated providers~~ CONTRACTORS or a methodology based on data that is reported to the administration by PRIVATE hospitals AND STATE OPERATED INSTITUTIONS FOR MENTAL DISEASE. The selected methodology applies to all PRIVATE hospitals AND STATE OPERATED INSTITUTIONS FOR MENTAL DISEASE qualifying for disproportionate share payments.

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~~S. Notwithstanding any law to the contrary, the administration may receive confidential adoption information for the purposes of identifying adoption related third party payors in order to recover the total costs for prenatal care and the delivery of the child, including capitation, reinsurance and any fee-for-service costs incurred by the administration on behalf of an eligible person who the administration has reason to believe had an arrangement to have the eligible person's newborn adopted. Except for the sole purpose of identifying adoption related third party payors, the administration shall not further disclose any information obtained pursuant to this subsection and shall develop and implement safeguards to protect the confidentiality of this information including limiting access to the information to only those administration personnel whose official duties require it. At no time shall the administration release to the adoptive parents' or birth parents' insurance carrier personally identifying information regarding the other party. A person who knowingly violates the requirements of this subsection pertaining to confidentiality is guilty of a class 6 felony.~~

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Q. NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE ADMINISTRATION MAY RECEIVE CONFIDENTIAL ADOPTION INFORMATION TO DETERMINE WHETHER AN ADOPTED CHILD SHOULD BE TERMINATED FROM THE SYSTEM.

~~T.~~ R. The adoption agency or the adoption attorney shall notify the administration within thirty days after an eligible person receiving services has placed that person's child for adoption.

~~U. The administration shall not seek maternity expenditure cost recovery from a third party payor on arrangements involving the placement of a newborn with special needs as defined in section 8-141, children in the custody of the state or children placed with relatives.~~

~~V.~~ S. If the administration implements an electronic claims submission system it may adopt procedures pursuant to subsection ~~J~~ H of this section requiring documentation different than prescribed under subsection ~~J~~ H, paragraph 4 of this section.

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EXPLANATION OF BLEND
SECTION 36-2904

Laws 2001, Chapters 31 and 344

Laws 2001, Ch. 31, section 1 — Effective August 9

Laws 2001, Ch. 344, section 43 — Conditionally effective

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 31 and Ch. 344 text changes to section 36-2904 are blended in the form shown on the following pages.

The Laws 2001, Ch. 31 version made technical changes in subsections F and I. The Ch. 344 version deleted the language in which these technical changes were made. Since this would not produce a substantive change, the blend version reflects the Ch. 344 version.

The Laws 2001, Ch. 344 version made conforming changes in subsection H. The Ch. 31 version struck the sentences in which these conforming changes were made. Since this would not produce a substantive change, the blend version reflects the Ch. 31 version.

The publisher will print this blend version pending the occurrence of the condition stated in Laws 2001, Ch. 344. If the condition does not occur before October 1, 2001, Laws 2001, Ch. 344 does not become effective and the publisher will delete this blend version of section 36-2904.

BLEND OF SECTION 36-2904
Laws 2001, Chapters 31 and 344

36-2904. Prepaid capitation coverage; requirements; long-term care; dispute resolution; award of contracts; notification; report

A. The administration may expend public funds appropriated for the purposes of this article and shall execute prepaid capitated health services contracts, pursuant to section 36-2906, with group disability insurers, hospital and medical service corporations, health care services organizations and any other appropriate public or private persons, including county-owned and operated facilities, for health and medical services to be provided under contract with [~~providers~~ CONTRACTORS]. ~~Beginning October 1, 1997,~~ The administration may assign liability for eligible persons and members through contractual agreements with [~~prepaid capitated providers~~ CONTRACTORS]. ~~In the event that~~ IF there is an insufficient number of qualified bids for prepaid capitated health services contracts for the provision of hospitalization and medical care within a county, the director may:

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1. Execute discount advance payment contracts, pursuant to section 36-2906 and subject to section 36-2903.01, for hospital services.

2. Execute capped fee-for-service contracts for health and medical services, other than hospital services. Any capped fee-for-service contract shall provide for reimbursement at a level of not to exceed a capped fee-for-service schedule adopted by the administration.

B. During any period in which services are needed and no contract exists, the director may do either of the following:

1. Pay ~~nonproviders~~ NONCONTRACTING PROVIDERS for health and medical services, other than hospital services, on a capped fee-for-service basis for members and persons who are determined eligible. However, the state shall not pay any amount for services ~~which~~ THAT exceeds a maximum amount set forth in a capped fee-for-service schedule adopted by the administration.

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2. Pay a hospital subject to the reimbursement level limitation prescribed in section 36-2903.01.

If health and medical services are provided in the absence of a contract, the director shall continue to attempt to procure by the bid process as provided in section 36-2906 contracts for such services as specified in this subsection.

Ch. 344 C. Payments to ~~providers~~ CONTRACTORS shall be made monthly or quarterly and may be subject to contract provisions requiring the retention of a specified percentage of the payment by the director, a reserve fund or other contract provisions by which adjustments to the payments are made based on utilization efficiency, including incentives for maintaining quality care and minimizing unnecessary inpatient services. Reserve funds withheld from ~~provider contracts~~ CONTRACTORS shall be distributed to ~~providers~~ CONTRACTORS who meet performance standards established by the director. Any reserve fund established pursuant to this subsection shall be established as a separate account within the Arizona health care cost containment system fund.

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D. ~~In carrying out the duty to provide hospitalization and medical care to members,~~ The administration shall adopt rules for the payment of NOMINAL copayments by members TO THE CONTRACTORS EXCEPT FOR SERVICES PROVIDED IN EMERGENCIES. ~~and, except for emergency situations, may require the payment of deductibles, coinsurance or premiums by members who are eligible pursuant to section 36-2901, paragraph 4, subdivision (a), (b), (c), (h) or (j). The administration shall also adopt rules requiring the collection by system providers of a copayment of five dollars from members eligible under section 36-2901, paragraph 4, subdivisions (a), (c), (h) and (j) for each physician's office visit or home visit and a copayment of twenty-five dollars for the nonemergency use of the emergency room except in those circumstances when a primary care physician or primary care practitioner refers the member or eligible person to an emergency room for care.~~ These rules shall provide for the waiver of copayments in appropriate circumstances for members ~~who are eligible pursuant to section 36-2901, paragraph 4, subdivision (b). The rules shall define the provider as the collector of copayments and the administration or the counties, on behalf of the administration, as the collector of coinsurance, deductibles and premiums. Staff in the hospital shall advise the member or eligible person that if the visit to the emergency room is not for an emergency condition, as determined by the hospital, the member or eligible person shall be charged the required copayment for the nonemergency use of the emergency room.~~

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E. EXCEPT AS PRESCRIBED IN SUBSECTION F OF THIS SECTION, a member defined as eligible pursuant to section 36-2901, paragraph ~~4~~ 6, subdivision ~~(b)~~ (a) may select, to the extent practicable as determined by the administration, from among the available ~~providers~~ CONTRACTORS of hospitalization and medical care and may select a primary care physician or primary care practitioner from among the primary care physicians and primary care practitioners participating in the contract in which the member is enrolled. THE ADMINISTRATION SHALL PROVIDE REIMBURSEMENT ONLY TO ENTITIES THAT HAVE A PROVIDER AGREEMENT WITH THE ADMINISTRATION AND THAT HAVE AGREED TO THE CONTRACTUAL REQUIREMENTS OF THAT AGREEMENT. EXCEPT AS PROVIDED IN SECTIONS 36-2908 AND 36-2909, the system shall only provide reimbursement for any health or medical services or costs of related services provided by or under referral from ~~any~~ THE primary care physician or primary care practitioner participating in the contract in which the member is enrolled. The director shall establish requirements as to the minimum time period that a member is assigned to specific ~~providers~~ CONTRACTORS in the system.

F. For a member defined as eligible pursuant to section 36-2901, paragraph ~~4~~ 6, subdivision (a), ~~(c) or (h)~~ ITEM (v) the director shall ~~implement a policy permitting choice of provider to the extent he deems feasible~~ ENROLL THE MEMBER WITH AN AVAILABLE CONTRACTOR LOCATED IN THE GEOGRAPHIC AREA OF THE MEMBER'S RESIDENCE. ~~If the director does not implement a choice of provider policy, he may at the time eligibility is determined enroll the member with an available provider located in the geographic area of the member's residence.~~ The member may select a primary care physician or primary care practitioner from among the primary care physicians or primary care practitioners participating in the contract in which the member is enrolled. The system shall only provide reimbursement

for health or medical services or costs of related services provided by or under referral from a primary care physician or primary care practitioner participating in the contract in which the member is enrolled. The director shall establish requirements as to the minimum time period that a member is assigned to specific ~~providers~~ CONTRACTORS in the system.

G. If a person who has been determined eligible but who has not yet enrolled in the system receives emergency services, the director shall provide by rule for the enrollment of the person on a priority basis. If a person requires system covered services on or after the date the person is determined eligible for the system but before the date of enrollment, the person is entitled to receive ~~such~~ THESE services in accordance with rules adopted by the director, and the administration shall pay for ~~such~~ THE services pursuant to section 36-2903.01 or, as specified in contract, ~~by~~ WITH the ~~prepaid capitated provider~~ CONTRACTOR pursuant to the subcontracted rate or this section.

H. The administration shall not pay claims for system covered services that are initially submitted more than six months after the date of the service for which payment is claimed OR AFTER THE DATE THAT ELIGIBILITY IS POSTED, WHICHEVER DATE IS LATER, or that are submitted as clean claims more than twelve months after the date of service for which payment is claimed OR AFTER THE DATE THAT ELIGIBILITY IS POSTED, WHICHEVER DATE IS LATER, except for claims submitted for reinsurance pursuant to section 36-2906, subsection C, paragraph 6 ~~or services covered pursuant to subsection I of this section~~. The administration shall not pay claims FOR SYSTEM COVERED SERVICES that are submitted by [~~prepaid capitated providers~~ CONTRACTORS] for reinsurance ~~and that are submitted more than twelve months after the date of service~~ AFTER THE TIME PERIOD SPECIFIED IN THE CONTRACT. ~~The administration shall not pay reinsurance claims that are submitted more than twelve months after the date of service.~~ The director may adopt rules or require contractual provisions that prescribe requirements and time limits for submittal of and payment for those claims. Notwithstanding any other provision of this article, if a claim that gives rise to a ~~prepaid capitated provider's~~ CONTRACTOR'S claim for reinsurance or deferred liability is the subject of an administrative grievance or appeal proceeding or other legal action, the ~~prepaid capitated provider~~ CONTRACTOR shall have at least ~~thirty-five~~ SIXTY days after an ultimate decision is rendered to submit a claim for reinsurance or deferred liability. ~~Prepaid capitated providers~~ CONTRACTORS that contract with the administration pursuant to subsection A of this section ~~are~~ SHALL not ~~required to~~ pay claims for system covered services that are INITIALLY submitted more than six months after the date of the service for which payment is claimed OR AFTER THE DATE THAT ELIGIBILITY IS POSTED, WHICHEVER DATE IS LATER, or that are submitted as clean claims more than twelve months after the date of the service for which payment is claimed OR AFTER THE DATE THAT ELIGIBILITY IS POSTED, WHICHEVER DATE IS LATER. ~~In the absence of a contract to the contrary, neither the administration nor prepaid capitated providers shall require subcontracting providers or nonproviders to initially submit claims less than six months after the date of the service for which payment is claimed or to submit clean claims less than twelve months after the date of the service for which~~

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~~payment is claimed. A person dissatisfied with the denial of a claim by the administration or a prepaid capitated provider has twelve months from the date of the service for which payment is claimed to institute a grievance against the administration or a prepaid capitated provider pursuant to section 36-2903.01, subsection B, paragraph 4.~~ For purposes of this subsection:

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1. "Clean claims" means claims that may be processed without obtaining additional information from the ~~provider of service~~ SUBCONTRACTED PROVIDER OF CARE, FROM A NONCONTRACTING PROVIDER or from a third party but does not include claims under investigation for fraud or abuse or claims under review for medical necessity.

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2. "Date of service" for a hospital inpatient means the date of discharge of the patient.

3. "SUBMITTED" MEANS THE DATE THE CLAIM IS RECEIVED BY THE ADMINISTRATION OR THE PREPAID CAPITATED PROVIDER, WHICHEVER IS APPLICABLE, AS ESTABLISHED BY THE DATE STAMP ON THE FACE OF THE DOCUMENT OR OTHER RECORD OF RECEIPT.

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~~I. In situations in which federal law requires coverage for a person before the date of enrollment for persons eligible pursuant to section 36-2901, paragraph 4, subdivision (b), the administration shall pay for these services in accordance with federal law at the level established pursuant to subsections A and B of this section and section 36-2903.01 or the prepaid capitated provider shall pay for these services, as specified in contract, pursuant to the subcontracted rate or section 36-2904.~~

~~J.~~ I. In any county having a population of five hundred thousand or fewer persons, a hospital ~~which~~ THAT executes a subcontract other than a capitation contract with a ~~provider~~ CONTRACTOR for the provision of hospital and medical services pursuant to this article shall offer a subcontract to any other ~~provider~~ CONTRACTOR providing services to that portion of the county and to any other person that plans to become a ~~provider~~ CONTRACTOR in that portion of the county. If such a hospital executes a subcontract other than a capitation contract with a ~~provider~~ CONTRACTOR for the provision of hospital and medical services pursuant to this article, the hospital shall adopt uniform criteria to govern the reimbursement levels paid by all ~~providers~~ CONTRACTORS with whom the hospital executes such a subcontract. Reimbursement levels offered by hospitals to ~~providers~~ CONTRACTORS pursuant to this subsection may vary among ~~providers~~ CONTRACTORS only as a result of the number of bed days purchased by the ~~provider~~ CONTRACTORS, the amount of financial deposit required by the hospital, if any, or the schedule of performance discounts offered by the hospital to the ~~provider~~ CONTRACTOR for timely payment of claims.

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~~K.~~ J. This subsection applies to inpatient hospital admissions and to outpatient hospital services on and after March 1, 1993. The director may negotiate at any time with a hospital on behalf of a ~~provider~~ CONTRACTOR for services provided pursuant to this article. If a ~~provider~~ CONTRACTOR negotiates with a hospital for services provided pursuant to this article, the following procedures apply:

1. The director shall require any ~~provider~~ CONTRACTOR to reimburse hospitals for services provided under this article based on reimbursement

levels that do not in the aggregate exceed those established pursuant to section 36-2903.01 and under terms ~~and conditions~~ on which the ~~provider~~ CONTRACTOR and the hospital agree. However, a hospital and a ~~provider~~ CONTRACTOR may agree on a different payment methodology than the methodology prescribed by the director pursuant to section 36-2903.01. The director by rule shall prescribe:

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(a) The time limits for any negotiation between the ~~provider~~ CONTRACTOR and the hospital.

(b) The ability of the director to review and approve or disapprove the reimbursement levels~~,~~ AND terms ~~and conditions~~ agreed on by the ~~provider~~ CONTRACTOR and the hospital.

(c) That if a ~~provider~~ CONTRACTOR and a hospital do not agree on reimbursement levels~~,~~ AND terms ~~and conditions~~ as required by this subsection, the reimbursement levels established pursuant to section 36-2903.01 apply.

(d) That, except if submitted under an electronic claims submission system, a hospital bill is considered received for purposes of subdivision (f) of this paragraph ~~upon~~ ON initial receipt of the legible, error-free claim form by the ~~provider~~ CONTRACTOR if the claim includes the following error-free documentation in legible form:

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(i) An admission face sheet.

(ii) An itemized statement.

(iii) An admission history and physical.

(iv) A discharge summary or an interim summary if the claim is split.

(v) An emergency record, if admission was through the emergency room.

(vi) Operative reports, if applicable.

(vii) A labor and delivery room report, if applicable.

(e) That payment received by a hospital from a ~~provider~~ CONTRACTOR is considered payment by the ~~provider~~ CONTRACTOR of the ~~provider's~~ CONTRACTOR'S liability for the hospital bill. A hospital may collect any unpaid portion of its bill from other third party payors or in situations covered by title 33, chapter 7, article 3.

(f) That a ~~provider~~ CONTRACTOR shall pay for services rendered on and after October 1, 1997 under any reimbursement level according to paragraph 1 of this subsection subject to the following:

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(i) ~~Except for members who are eligible pursuant to section 36-2901, paragraph 4, subdivisions (a), (c), (h) and (j),~~ If the hospital's bill is paid within thirty days of the date the bill was received, the ~~provider~~ CONTRACTOR shall pay ninety-nine per cent of the rate.

(ii) If the hospital's bill is paid after thirty days but within sixty days of the date the bill was received, the ~~provider~~ CONTRACTOR shall pay one hundred per cent of the rate.

(iii) If the hospital's bill is paid any time after sixty days of the date the bill was received, the ~~provider~~ CONTRACTOR shall pay one hundred per cent of the rate plus a fee of one per cent per month for each month or portion of a month following the sixtieth day of receipt of the bill until the date of payment.

2. In any county having a population of five hundred thousand or fewer persons, a hospital that executes a subcontract other than a capitation

contract with a provider for the provision of hospital and medical services pursuant to this article shall offer a subcontract to any other provider providing services to that portion of the county and to any other person that plans to become a provider in that portion of the county. If a hospital executes a subcontract other than a capitation contract with a provider for the provision of hospital and medical services pursuant to this article, the hospital shall adopt uniform criteria to govern the reimbursement levels paid by all providers with whom the hospital executes a subcontract.

~~L.~~ K. If there is an insufficient number of, or an inadequate member capacity in, contracts awarded to ~~prepaid capitated providers~~ CONTRACTORS, the director, in order to deliver covered services to members enrolled or expected to be enrolled in the system within a county, may negotiate and award, without bid, a ~~prepaid capitated~~ contract with a health care services organization holding a certificate of authority pursuant to title 20, chapter 4, article 9. The director shall require a health care services organization contracting under this subsection to comply with section 36-2906.01. The term of the contract shall not extend beyond the next bid and contract award process as provided in section 36-2906 and shall be no greater than capitation rates paid to ~~prepaid capitated providers~~ CONTRACTORS in the same county or counties pursuant to section 36-2906. Contracts awarded pursuant to this subsection are exempt from the requirements of title 41, chapter 23.

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~~M.~~ L. A ~~prepaid capitated provider~~ CONTRACTOR may require that A subcontracting ~~providers~~ or ~~nonproviders~~ NONCONTRACTING PROVIDER shall be paid for covered services, other than hospital services, according to the capped fee-for-service schedule adopted by the director pursuant to subsection A, paragraph 2 of this section or subsection B, paragraph 1 of this section or at lower rates as may be negotiated by the ~~prepaid capitated provider~~ CONTRACTOR.

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~~N.~~ M. The director shall require any ~~prepaid capitated provider~~ CONTRACTOR to have a plan to notify members of reproductive age either directly or through the parent or legal guardian, whichever is most appropriate, of the specific covered family planning services available to them and a plan to deliver those services to members who request them. The director shall ensure that these plans include provisions for written notification, other than the member handbook, and verbal notification during a member's visit with the member's primary care physician or primary care practitioner.

~~O.~~ N. The director shall adopt a plan to notify members of reproductive age who receive care from a ~~prepaid capitated provider~~ CONTRACTOR who elects not to provide family planning services of the specific covered family planning services available to them and to provide for the delivery of those services to members who request them. Notification may be directly to the member, or through the parent or legal guardian, whichever is most appropriate. The director shall ensure that the plan includes provisions for written notification, other than the member handbook, and verbal notification during a member's visit with the member's primary care physician or primary care practitioner.

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~~P.~~ O. The director shall annually prepare a report ~~representing~~ THAT REPRESENTS a statistically valid sample ~~which~~ AND THAT indicates the number of children ages two and under by ~~prepaid capitated provider~~ CONTRACTOR who received the immunizations recommended by the national centers for disease control and prevention while enrolled as members. The report shall indicate each type of immunization and the number and percentage of enrolled children ages two and under who received each type of immunization. The report shall be done by contract year and shall be delivered to the governor, the president of the senate and the speaker of the house of representatives no later than ~~January 30~~ APRIL 1 of each year.

~~Q.~~ P. If the administration implements an electronic claims submission system it may adopt procedures pursuant to subsection ~~K~~ J, paragraph 1 of this section requiring documentation different than prescribed under subsection ~~K~~ J, paragraph 1, subdivision (d) of this section.

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EXPLANATION OF BLEND
SECTION 36-2921

Laws 2001, Chapters 365, 374, 384 and 385

Laws 2001, Ch. 365, section 1	Effective August 9
Laws 2001, Ch. 374, section 2	Effective August 9
Laws 2001, Ch. 384, section 1	Effective August 9
Laws 2001, Ch. 385, section 4	Effective October 1

Explanation

Since these four enactments are not incompatible, the Laws 2001, Ch. 365, Ch. 374, Ch. 384 and Ch. 385 text changes to section 36-2921 are blended in the form shown on the following pages.

Section 36-2921 was amended an additional time by Laws 2001, Ch. 344 with a conditional enactment that will require a separate blend in addition to this blend.

Section 36-2921 was amended an additional time by Laws 2001, Ch. 313 with a delayed effective date that will require separate publication in addition to this blend.

BLEND OF SECTION 36-2921
Laws 2001, Chapters 365, 374, 384 and 385

36-2921. Tobacco tax allocation

A. Subject to the availability of monies in the medically needy account established pursuant to section 36-774 the administration shall use the monies in the account in the following order:

1. The administration shall withdraw the amount necessary to pay the state share of costs for providing health care services to any person who is eligible pursuant to section 36-2901, paragraph 4, subdivisions (a), (c) and (h) and who becomes eligible for a heart, lung, heart-lung, liver or autologous and allogeneic bone marrow transplant pursuant to section 36-2907, subsection A, paragraph 11, subdivision (d) as determined by the administrator and to any person who is eligible pursuant to section 36-2901, paragraph 4, subdivision (b) and who becomes eligible for a lung or heart-lung transplant pursuant to section 36-2907, subsection A, paragraph 11, subdivision (b), as determined by the administrator.

2. Beginning on August 1, 1995 and on the first day of each month until July 1, 1998, the sum of one million two hundred fifty thousand dollars shall be transferred from the medically needy account to the medical services stabilization fund for uses as prescribed in section 36-2922.

3. The administration shall withdraw the sum of nine million two hundred fifty-one thousand one hundred dollars in fiscal year 1998-1999 for deposit in the children's health insurance program fund established by section 36-2995 to pay the state share of the children's health insurance program established pursuant to article 4 of this chapter.

4. From and after August 1, 1995 and each year thereafter, the administration shall transfer the following monies to the department of health services to be allocated as follows if the department awards a contract:

(a) Five million dollars, for the mental health grant program established pursuant to section 36-3414.

(b) Six million dollars, for primary care services established pursuant to section 36-2907.05. NOTWITHSTANDING SECTION 36-2907.05, OF THE AMOUNT TRANSFERRED PURSUANT TO THIS SUBDIVISION FOR FISCAL YEARS 2001-2002 AND 2002-2003, FIVE HUNDRED THOUSAND DOLLARS SHALL BE DISTRIBUTED TO COMMUNITY BASED PRIMARY CARE PROGRAMS TO PROVIDE PRIMARY CARE OR URGENT CARE SERVICES DURING EVENING AND WEEKEND HOURS.

(c) FOR FISCAL YEAR 2001-2002 five million dollars, for grants to the qualifying community health centers established pursuant to section 36-2907.06, subsection A. Ch. 374

(d) FOR FISCAL YEAR 2002-2003 AND EACH FISCAL YEAR THEREAFTER FOUR MILLION SEVEN HUNDRED FORTY THOUSAND DOLLARS, FOR GRANTS TO THE QUALIFYING COMMUNITY HEALTH CENTERS ESTABLISHED PURSUANT TO SECTION 36-2907.06, SUBSECTION A.

5. The administration shall transfer ~~up to five hundred~~ THREE HUNDRED SEVENTY-FIVE thousand dollars ~~for fiscal years 1997-1998,~~

~~1998-1999 and 1999-2000~~ ANNUALLY for ~~pilot~~ programs providing detoxification services in counties having a population of five hundred thousand persons or less ~~according to the most recent United States decennial census~~. OF THE MONIES TRANSFERRED PURSUANT TO THIS PARAGRAPH, TWO HUNDRED FIFTY THOUSAND DOLLARS SHALL BE DISTRIBUTED TO A PROGRAM THAT PROVIDES DETOXIFICATION TREATMENT AND SERVICES THROUGH A LONG-TERM SOCIAL
Ch. 374 MODEL DETOXIFICATION PROGRAM THAT EMPHASIZES REHABILITATION AND ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS SHALL BE DISTRIBUTED TO A PROGRAM THAT PROVIDES SHORT-TERM DETOXIFICATION TREATMENT AND SERVICES AND IS PART OF A CONTINUUM OF DETOXIFICATION TREATMENT.

6. The administration shall transfer up to two hundred fifty thousand dollars annually for fiscal years 1995-1996, 1996-1997, 1997-1998, 1998-1999, ~~and~~ 1999-2000, 2001-2002 AND 2002-2003 for telemedicine pilot programs designed to facilitate the provision of medical services to persons living in medically underserved areas as provided in section 36-2352.

7. The administration shall transfer up to two hundred fifty thousand dollars annually beginning in fiscal year 1996-1997 for contracts by the department of health services with nonprofit organizations that primarily assist in the management of end stage renal disease and related problems. Contracts shall not include payments for transportation of patients for dialysis.

8. ~~Contingent on the existence of a premium sharing demonstration project fund, beginning October 1, 1996 and until September 30, 1999,~~ FOR FISCAL YEAR 2001-2002 the administration shall withdraw the sum of ~~twenty~~ FIVE million dollars AND BEGINNING ON JULY 1, 2002 TWENTY MILLION DOLLARS in each ~~of~~ fiscal ~~years 1996-1997, 1997-1998 and 1998-1999~~ YEAR for deposit in the premium sharing ~~demonstration project~~ PROGRAM fund established by section 36-2923 to provide health care services to any person who is eligible for an Arizona health care cost containment system premium sharing ~~demonstration~~ program enacted by the legislature. The
Ch. 385 Arizona health care cost containment system premium sharing ~~demonstration~~ program ~~enacted by the legislature shall~~ IS not ~~be~~ an entitlement program. ~~Beginning on October 1, 1997,~~ The administration shall annually withdraw monies from the medically needy account not to exceed four per cent of the sum of any monies transferred pursuant to this paragraph for administrative costs associated with the premium sharing ~~demonstration project~~ PROGRAM. THE ADMINISTRATION SHALL USE UP TO ONE-HALF OF ONE PER CENT OF THIS AMOUNT FOR MARKETING AND OUTREACH. Administrative costs in excess of two per cent shall be funded from the interest payments from the ~~twenty million dollars~~ MONIES withdrawn from the medically needy account to fund the premium sharing program pursuant to this paragraph.

9. Subject to the availability of monies, the Arizona health care cost containment system administration shall transfer to the department of health services up to five million dollars in fiscal years 1996-1997 and 1997-1998 and two million five hundred thousand dollars in fiscal year 1998-1999 for providing nonentitlement funding for a basic children's medical services program established by section 36-2907.08. The administration may also withdraw and transfer to the department amounts

for program evaluation and for administrative costs as prescribed in section 36-2907.08.

10. Subject to the availability of monies, the sum of one million dollars shall be transferred annually to the health crisis fund for use as prescribed in section 36-797.

11. Subject to the availability of monies, the Arizona health care cost containment system administration shall transfer to the aging and adult administration in the department of economic security the sum of five hundred thousand dollars annually beginning in fiscal year 1997-1998 for services provided pursuant to section 46-192, subsection A, paragraph 4. Services shall be used for persons who meet the low income eligibility criteria developed by the aging and adult administration.

12. Subject to the availability of monies, the Arizona health care cost containment system administration shall transfer to the department of
Ch. 374 — health services the sum of ~~two hundred~~ SEVENTY thousand dollars annually beginning in fiscal year 1998-1999 for contracts entered into pursuant to section 36-132, subsection D, with hospitals that are licensed by the department of health services and that perform nonrenal organ transplant operations. These contracts shall not include payments for transportation to and from treatment facilities.

13. Subject to the availability of monies, the Arizona health care cost containment system administration shall annually transfer to the department of health services the sum of one hundred eleven thousand two hundred dollars to implement the rural private primary care provider loan repayment program established pursuant to section 36-2174. The department shall not use these monies for administrative costs. The transfers made pursuant to this paragraph are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

14. SUBJECT TO THE AVAILABILITY OF MONIES, THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION SHALL TRANSFER ANNUALLY TO THE
Ch. 384 — DEPARTMENT OF HEALTH SERVICES THE SUM OF ONE HUNDRED FIFTY THOUSAND DOLLARS TO ASSIST HEALTH SERVICE DISTRICTS IN PERFORMING THEIR SERVICES AND TO ASSIST APPLICANTS WHO WISH TO ESTABLISH NEW DISTRICTS PURSUANT TO TITLE 48, CHAPTER 16.

15. SUBJECT TO THE AVAILABILITY OF MONIES, THE ADMINISTRATION SHALL TRANSFER TO THE DEPARTMENT OF HEALTH SERVICES THE SUM OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS IN FISCAL YEAR 2001-2002 TO AWARD A QUALITY RATING FINANCIAL INCENTIVE GRANT TO EACH NURSING CARE INSTITUTION THAT RECEIVED IN TWO CONSECUTIVE YEARS A QUALITY RATING OF EXCELLENT ON THE ANNUAL FACILITY COMPLIANCE AND LICENSURE SURVEY CONDUCTED PURSUANT TO SECTION 36-425.02 AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
Ch. 365 — SECTION REGARDLESS OF THE ACTUAL DATE OF THE RESULTS OF THE SURVEY. A NURSING CARE INSTITUTION IS NOT ELIGIBLE FOR A GRANT IF THE INSTITUTION RECEIVED A VIOLATION DETERMINED BY THE DEPARTMENT TO BE WIDESPREAD WITH POTENTIAL FOR MORE THAN MINIMAL HARM, OR A VIOLATION THAT RESULTED IN ACTUAL HARM OR THAT CONSTITUTES IMMEDIATE JEOPARDY TO RESIDENT HEALTH AND SAFETY. A NURSING CARE INSTITUTION MUST USE A GRANT AWARDED PURSUANT TO THIS PARAGRAPH ONLY FOR DIRECT CARE NONADMINISTRATIVE STAFF TO IMPROVE THE QUALITY OF RESIDENT CARE. EACH INDIVIDUAL INCENTIVE GRANT EQUALS THE AMOUNT THAT RESULTS BY DIVIDING ONE MILLION FIVE HUNDRED THOUSAND DOLLARS

BY THE TOTAL NUMBER OF CENSUS DAYS FOR ALL FACILITIES THAT RECEIVED AN EXCELLENT RATING FOR THE APPLICABLE TIME PERIOD AND MULTIPLYING THE RESULT BY THE TOTAL NUMBER OF CENSUS DAYS FOR THE FACILITY RECEIVING THE GRANT, EXCEPT THAT THE DEPARTMENT MAY NOT AWARD AN INCENTIVE GRANT OF MORE THAN ONE HUNDRED THOUSAND DOLLARS TO ANY ONE INSTITUTION. THE DEPARTMENT MAY NOT AWARD AN INCENTIVE GRANT TO A FACILITY THAT WAS PLACED ON A PROVISIONAL LICENSE DURING THE PREVIOUS TWELVE MONTHS BEFORE THE AWARD OF THE INCENTIVE GRANT. IF THE FACILITY TRANSFERS OWNERSHIP, THE DEPARTMENT SHALL AWARD THE INCENTIVE GRANT TO THE LICENSEE AT THE TIME OF THE AWARD. A FACILITY THAT CEASES OPERATION BEFORE AN ANNUAL INCENTIVE GRANT DISTRIBUTION DATE IS NOT ELIGIBLE FOR AN INCENTIVE GRANT. THE TRANSFER MADE PURSUANT TO THIS PARAGRAPH IS EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS. FOR THE PURPOSES OF THIS PARAGRAPH, "CENSUS DAY" MEANS EACH DAY AN INDIVIDUAL INPATIENT BED IS OCCUPIED BASED ON THE MOST RECENTLY FILED FINANCIAL STATEMENT OF A FACILITY PURSUANT TO SECTION 36-125.04. THE DEPARTMENT MAY APPLY FOR AVAILABLE MATCHING FEDERAL FUNDS.

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16. SUBJECT TO THE AVAILABILITY OF MONIES, THE ADMINISTRATION SHALL TRANSFER TO THE DEPARTMENT OF HEALTH SERVICES THE SUM OF TWO HUNDRED FIFTY THOUSAND DOLLARS IN FISCAL YEAR 2001-2002 FOR THE PROVISION OF PRIMARY HEALTH CARE SERVICES IN AN AREA OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY DESIGNATED AS THE TUCSON INTERNATIONAL AIRPORT AREA SUPERFUND SITE IN 1983 DUE TO CONTAMINATION FROM TRICHLOROETHYLENE. THE TRANSFER MADE PURSUANT TO THIS PARAGRAPH IS EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS. THE DEPARTMENT OF HEALTH SERVICES IS EXEMPT FROM THE PROCUREMENT CODE REQUIREMENT OF TITLE 41, CHAPTER 23, FOR PURPOSES RELATING TO THIS PARAGRAPH.

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B. The department of health services shall establish an accounting procedure to ensure that all funds transferred pursuant to this section are maintained separately from any other funds.

C. The administration shall annually withdraw monies from the medically needy account in the amount necessary to reimburse the department of health services for administrative costs to implement each program established pursuant to subsection A of this section not to exceed four per cent of the amount transferred for each program.

D. The administration shall annually withdraw monies from the medically needy account in the amount necessary to reimburse the department of health services for the evaluations as prescribed by section 36-2907.07.

E. The administration shall annually report, no later than November 1, to the director of the joint legislative budget committee the annual revenues deposited in the medically needy account and the estimated expenditures needed in the subsequent year to provide funding for services provided in subsection A, paragraph 1 of this section. The administration shall immediately report to the director of the joint legislative budget committee if at any time the administration estimates that the amount available in the medically needy account will not be sufficient to fund the maximum allocations established in this section.

EXPLANATION OF BLEND
SECTION 36-2921

Laws 2001, Chapters 344, 365, 374, 384 and 385

Laws 2001, Ch. 344, section 68	Conditionally effective
Laws 2001, Ch. 365, section 1	Effective August 9
Laws 2001, Ch. 374, section 2	Effective August 9
Laws 2001, Ch. 384, section 1	Effective August 9
Laws 2001, Ch. 385, section 4	Effective October 1

Explanation

Since these five enactments are not incompatible, the Laws 2001, Ch. 344, Ch. 365, Ch. 374, Ch. 384 and Ch. 385 text changes to section 36-2921 are blended in the form shown on the following pages.

The publisher will print this blend version pending the occurrence of the condition stated in Laws 2001, Ch. 344. If the condition does not occur before October 1, 2001, Laws 2001, Ch. 344 does not become effective and the publisher will delete this blend version of section 36-2921.

Section 36-2921 was amended an additional time by Laws 2001, Ch. 313 with a delayed effective date that will require separate publication in addition to this blend.

BLEND OF SECTION 36-2921
Laws 2001, Chapters 344, 365, 374, 384 and 385

36-2921. Tobacco tax allocation

A. Subject to the availability of monies in the medically needy account established pursuant to section 36-774 the administration shall use the monies in the account in the following order:

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~~1. The administration shall withdraw the amount necessary to pay the state share of costs for providing health care services to any person who is eligible pursuant to section 36-2901, paragraph 4, subdivisions (a), (c) and (h) and who becomes eligible for a heart, lung, heart-lung, liver or autologous and allogeneic bone marrow transplant pursuant to section 36-2907, subsection A, paragraph 11, subdivision (d) as determined by the administrator and to any person who is eligible pursuant to section 36-2901, paragraph 4, subdivision (b) and who becomes eligible for a lung or heart-lung transplant pursuant to section 36-2907, subsection A, paragraph 11, subdivision (b), as determined by the administrator.~~

~~2.~~ 1. Beginning on August 1, 1995 and on the first day of each month until July 1, 1998, the sum of one million two hundred fifty thousand dollars shall be transferred from the medically needy account to the medical services stabilization fund for uses as prescribed in section 36-2922.

~~3.~~ 2. The administration shall withdraw the sum of nine million two hundred fifty-one thousand one hundred dollars in fiscal year 1998-1999 for deposit in the children's health insurance program fund established by section 36-2995 to pay the state share of the children's health insurance program established pursuant to article 4 of this chapter.

~~4.~~ 3. From and after August 1, 1995 and each year thereafter, the administration shall transfer the following monies to the department of health services to be allocated as follows if the department awards a contract:

(a) Five million dollars, for the mental health grant program established pursuant to section 36-3414.

(b) Six million dollars, for primary care services established pursuant to section 36-2907.05. NOTWITHSTANDING SECTION 36-2907.05, OF THE AMOUNT TRANSFERRED PURSUANT TO THIS SUBDIVISION FOR FISCAL YEARS 2001-2002 AND 2002-2003, FIVE HUNDRED THOUSAND DOLLARS SHALL BE DISTRIBUTED TO COMMUNITY BASED PRIMARY CARE PROGRAMS TO PROVIDE PRIMARY CARE OR URGENT CARE SERVICES DURING EVENING AND WEEKEND HOURS.

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(c) FOR FISCAL YEAR 2001-2002 five million dollars, for grants to the qualifying community health centers established pursuant to section 36-2907.06, subsection A.

(d) FOR FISCAL YEAR 2002-2003 AND EACH FISCAL YEAR THEREAFTER FOUR MILLION SEVEN HUNDRED FORTY THOUSAND DOLLARS, FOR GRANTS TO THE QUALIFYING COMMUNITY HEALTH CENTERS ESTABLISHED PURSUANT TO SECTION 36-2907.06, SUBSECTION A.

~~5.~~ 4. The administration shall transfer ~~up to five hundred~~ THREE HUNDRED SEVENTY-FIVE thousand dollars ~~for fiscal years 1997-1998, 1998-1999 and 1999-2000~~ ANNUALLY for ~~pilot~~ programs providing detoxification services in counties having a population of five hundred thousand persons or less ~~according to the most recent United States decennial census~~. OF THE MONIES TRANSFERRED PURSUANT TO THIS PARAGRAPH, TWO HUNDRED FIFTY THOUSAND DOLLARS SHALL BE DISTRIBUTED TO A PROGRAM THAT
Ch. 374 PROVIDES DETOXIFICATION TREATMENT AND SERVICES THROUGH A LONG-TERM SOCIAL MODEL DETOXIFICATION PROGRAM THAT EMPHASIZES REHABILITATION AND ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS SHALL BE DISTRIBUTED TO A PROGRAM THAT PROVIDES SHORT-TERM DETOXIFICATION TREATMENT AND SERVICES AND IS PART OF A CONTINUUM OF DETOXIFICATION TREATMENT.

~~6.~~ 5. The administration shall transfer up to two hundred fifty thousand dollars annually for fiscal years 1995-1996, 1996-1997, 1997-1998, 1998-1999, ~~and~~ 1999-2000, 2001-2002 AND 2002-2003 for telemedicine pilot programs designed to facilitate the provision of medical services to persons living in medically underserved areas as provided in section 36-2352.

~~7.~~ 6. The administration shall transfer up to two hundred fifty thousand dollars annually beginning in fiscal year 1996-1997 for contracts by the department of health services with nonprofit organizations that primarily assist in the management of end stage renal disease and related problems. Contracts shall not include payments for transportation of patients for dialysis.

~~8.~~ 7. ~~Contingent on the existence of a premium sharing demonstration project fund, beginning October 1, 1996 and until September 30, 1999,~~ FOR FISCAL YEAR 2001-2002 the administration shall withdraw the sum of ~~twenty~~ FIVE million dollars AND BEGINNING ON JULY 1, 2002 TWENTY MILLION DOLLARS in each ~~of~~ fiscal ~~years 1996-1997, 1997-1998 and 1998-1999~~ YEAR for deposit in the premium sharing ~~demonstration project~~ PROGRAM fund established by section 36-2923 to provide health care services to any person who is eligible for an Arizona health care cost containment system premium sharing ~~demonstration~~ program enacted by the legislature. The
Ch. 385 Arizona health care cost containment system premium sharing ~~demonstration~~ program ~~enacted by the legislature shall~~ IS not ~~be~~ an entitlement program. ~~Beginning on October 1, 1997,~~ The administration shall annually withdraw monies from the medically needy account not to exceed four per cent of the sum of any monies transferred pursuant to this paragraph for administrative costs associated with the premium sharing ~~demonstration project~~ PROGRAM. THE ADMINISTRATION SHALL USE UP TO ONE-HALF OF ONE PER CENT OF THIS AMOUNT FOR MARKETING AND OUTREACH. Administrative costs in excess of two per cent shall be funded from the interest payments from the ~~twenty million dollars~~ MONIES withdrawn from the medically needy account to fund the premium sharing program pursuant to this paragraph.

~~9.~~ 8. Subject to the availability of monies, the Arizona health care cost containment system administration shall transfer to the department of health services up to five million dollars in fiscal years 1996-1997 and 1997-1998 and two million five hundred thousand dollars in fiscal year 1998-1999 for providing nonentitlement funding for a basic children's medical services program established by section

36-2907.08. The administration may also withdraw and transfer to the department amounts for program evaluation and for administrative costs as prescribed in section 36-2907.08.

~~10.~~ 9. Subject to the availability of monies, the sum of one million dollars shall be transferred annually to the health crisis fund for use as prescribed in section 36-797.

~~11.~~ 10. Subject to the availability of monies, the Arizona health care cost containment system administration shall transfer to the aging and adult administration in the department of economic security the sum of five hundred thousand dollars annually beginning in fiscal year 1997-1998 for services provided pursuant to section 46-192, subsection A, paragraph 4. Services shall be used for persons who meet the low income eligibility criteria developed by the aging and adult administration.

~~12.~~ 11. Subject to the availability of monies, the Arizona health care cost containment system administration shall transfer to the
Ch. 374 — department of health services the sum of ~~two hundred~~ SEVENTY thousand dollars annually beginning in fiscal year 1998-1999 for contracts entered into pursuant to section 36-132, subsection D, with hospitals that are licensed by the department of health services and that perform nonrenal organ transplant operations. These contracts shall not include payments for transportation to and from treatment facilities.

~~13.~~ 12. Subject to the availability of monies, the Arizona health care cost containment system administration shall annually transfer to the department of health services the sum of one hundred eleven thousand two hundred dollars to implement the rural private primary care provider loan repayment program established pursuant to section 36-2174. The department shall not use these monies for administrative costs. The transfers made pursuant to this paragraph are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

13. SUBJECT TO THE AVAILABILITY OF MONIES, THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION SHALL TRANSFER ANNUALLY TO THE
Ch. 384 — DEPARTMENT OF HEALTH SERVICES THE SUM OF ONE HUNDRED FIFTY THOUSAND DOLLARS TO ASSIST HEALTH SERVICE DISTRICTS IN PERFORMING THEIR SERVICES AND TO ASSIST APPLICANTS WHO WISH TO ESTABLISH NEW DISTRICTS PURSUANT TO TITLE 48, CHAPTER 16.

14. SUBJECT TO THE AVAILABILITY OF MONIES, THE ADMINISTRATION SHALL TRANSFER TO THE DEPARTMENT OF HEALTH SERVICES THE SUM OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS IN FISCAL YEAR 2001-2002 TO AWARD A QUALITY RATING FINANCIAL INCENTIVE GRANT TO EACH NURSING CARE INSTITUTION THAT RECEIVED IN TWO CONSECUTIVE YEARS A QUALITY RATING OF EXCELLENT ON THE ANNUAL FACILITY COMPLIANCE AND LICENSURE SURVEY CONDUCTED PURSUANT TO
Ch. 365 — SECTION 36-425.02 AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION REGARDLESS OF THE ACTUAL DATE OF THE RESULTS OF THE SURVEY. A NURSING CARE INSTITUTION IS NOT ELIGIBLE FOR A GRANT IF THE INSTITUTION RECEIVED A VIOLATION DETERMINED BY THE DEPARTMENT TO BE WIDESPREAD WITH POTENTIAL FOR MORE THAN MINIMAL HARM, OR A VIOLATION THAT RESULTED IN ACTUAL HARM OR THAT CONSTITUTES IMMEDIATE JEOPARDY TO RESIDENT HEALTH AND SAFETY. A NURSING CARE INSTITUTION MUST USE A GRANT AWARDED PURSUANT TO THIS PARAGRAPH ONLY FOR DIRECT CARE NONADMINISTRATIVE STAFF TO IMPROVE THE QUALITY OF RESIDENT CARE. EACH INDIVIDUAL INCENTIVE GRANT EQUALS THE

AMOUNT THAT RESULTS BY DIVIDING ONE MILLION FIVE HUNDRED THOUSAND DOLLARS BY THE TOTAL NUMBER OF CENSUS DAYS FOR ALL FACILITIES THAT RECEIVED AN EXCELLENT RATING FOR THE APPLICABLE TIME PERIOD AND MULTIPLYING THE RESULT BY THE TOTAL NUMBER OF CENSUS DAYS FOR THE FACILITY RECEIVING THE GRANT, EXCEPT THAT THE DEPARTMENT MAY NOT AWARD AN INCENTIVE GRANT OF MORE THAN ONE HUNDRED THOUSAND DOLLARS TO ANY ONE INSTITUTION. THE DEPARTMENT MAY NOT AWARD AN INCENTIVE GRANT TO A FACILITY THAT WAS PLACED ON A PROVISIONAL LICENSE DURING THE PREVIOUS TWELVE MONTHS BEFORE THE AWARD OF
Ch. 365 — THE INCENTIVE GRANT. IF THE FACILITY TRANSFERS OWNERSHIP, THE DEPARTMENT SHALL AWARD THE INCENTIVE GRANT TO THE LICENSEE AT THE TIME OF THE AWARD. A FACILITY THAT CEASES OPERATION BEFORE AN ANNUAL INCENTIVE GRANT DISTRIBUTION DATE IS NOT ELIGIBLE FOR AN INCENTIVE GRANT. THE TRANSFER MADE PURSUANT TO THIS PARAGRAPH IS EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS. FOR THE PURPOSES OF THIS PARAGRAPH, "CENSUS DAY" MEANS EACH DAY AN INDIVIDUAL INPATIENT BED IS OCCUPIED BASED ON THE MOST RECENTLY FILED FINANCIAL STATEMENT OF A FACILITY PURSUANT TO SECTION 36-125.04. THE DEPARTMENT MAY APPLY FOR AVAILABLE MATCHING FEDERAL FUNDS.

15. SUBJECT TO THE AVAILABILITY OF MONIES, THE ADMINISTRATION SHALL TRANSFER TO THE DEPARTMENT OF HEALTH SERVICES THE SUM OF TWO HUNDRED FIFTY THOUSAND DOLLARS IN FISCAL YEAR 2001-2002 FOR THE PROVISION OF PRIMARY HEALTH CARE SERVICES IN AN AREA OF THE UNITED STATES ENVIRONMENTAL
Ch. 374 — PROTECTION AGENCY DESIGNATED AS THE TUCSON INTERNATIONAL AIRPORT AREA SUPERFUND SITE IN 1983 DUE TO CONTAMINATION FROM TRICHLOROETHYLENE. THE TRANSFER MADE PURSUANT TO THIS PARAGRAPH IS EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS. THE DEPARTMENT OF HEALTH SERVICES IS EXEMPT FROM THE PROCUREMENT CODE REQUIREMENT OF TITLE 41, CHAPTER 23, FOR PURPOSES RELATING TO THIS PARAGRAPH.

B. The department of health services shall establish an accounting procedure to ensure that all funds transferred pursuant to this section are maintained separately from any other funds.

C. The administration shall annually withdraw monies from the medically needy account in the amount necessary to reimburse the department of health services for administrative costs to implement each program established pursuant to subsection A of this section not to exceed four per cent of the amount transferred for each program.

D. The administration shall annually withdraw monies from the medically needy account in the amount necessary to reimburse the department of health services for the evaluations as prescribed by section 36-2907.07.

~~E. The administration shall annually report, no later than November 1, to the director of the joint legislative budget committee the annual revenues deposited in the medically needy account and the estimated expenditures needed in the subsequent year to provide funding for services~~
Ch. 344 — ~~provided in subsection A, paragraph 1 of this section. The administration shall immediately report to the director of the joint legislative budget committee if at any time the administration estimates that the amount available in the medically needy account will not be sufficient to fund the maximum allocations established in this section.~~

EXPLANATION OF BLEND
SECTION 36-2923

Laws 2001, Chapters 344 and 385

Laws 2001, Ch. 344, section 70	Conditionally effective
Laws 2001, Ch. 385, section 5	Effective October 1

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 344 and Ch. 385 text changes to section 36-2923 are blended in the form shown on the following page.

The publisher will print this blend version pending the occurrence of the condition stated in Laws 2001, Ch. 344. If the condition does not occur before October 1, 2001, Laws 2001, Ch. 344 does not become effective and the publisher will delete this blend version of section 36-2923.

BLEND OF SECTION 36-2923
Laws 2001, Chapters 344 and 385

36-2923. Premium sharing program fund; purpose; expenditures; nonlapsing; investment

A. ~~A~~ THE premium sharing ~~demonstration project~~ PROGRAM fund is established for costs associated with ~~an~~ THE Arizona health care cost containment system premium sharing ~~demonstration project~~ PROGRAM that ~~is to provide~~ PROVIDES uninsured persons access to medical services ~~provided~~ by system providers. The fund consists of monies deposited from the medically needy account of the tobacco tax and health care fund pursuant to section 36-2921, subsection A, paragraph [~~8~~ 7], MONIES THAT ARE DEPOSITED IN A FUND ESTABLISHED PURSUANT TO THE TOBACCO LITIGATION MASTER SETTLEMENT AGREEMENT ENTERED INTO ON NOVEMBER 23, 1998 AND THAT ARE DESIGNATED FOR THE PROGRAM and premiums collected from ~~demonstration project~~ PROGRAM participants. The administration shall administer the fund ~~as a continuing appropriation~~.

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~~B. Beginning on October 1, 1997, if a premium sharing demonstration project is established, the administration shall spend monies in the fund through the first quarter of fiscal year 2001-2002 to cover demonstration project expenditures. The administration may continue to make expenditures from the fund, subject to the availability of monies in the fund, for covering program costs incurred but not processed by the administration during the fiscal years in which the program officially operated.~~

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~~C. The director may withdraw not more than seventy-five thousand dollars from the fund for the fifteen month period beginning July 1, 1996 and ending September 30, 1997 to cover administrative expenditures related to the development of a premium sharing demonstration project proposal or any premium sharing demonstration project analysis requested by a committee of the legislature.~~

~~D.~~ B. Monies in the PREMIUM SHARING PROGRAM fund are continuously appropriated ~~through September 30, 2001~~ and are exempt from the provisions of section 35-190 relating to lapsing of appropriations. ~~, except that all unexpended and unencumbered monies remaining on October 1, 2002 revert to the medically needy account of the tobacco tax and health care fund.~~

~~E.~~ C. On notice from the administrator, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

~~F. For purposes of this section, unless otherwise noted, "fund" means the premium sharing demonstration project fund.~~

EXPLANATION OF BLEND
SECTION 36-2932

Laws 2001, Chapters 96 and 153

Laws 2001, Ch. 96, section 2 — Effective August 9

Laws 2001, Ch. 153, section 2 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 96 and Ch. 153 text changes to section 36-2932 are blended in the form shown on the following pages.

BLEND OF SECTION 36-2932
Laws 2001, Chapters 96 and 153

36-2932. Arizona long-term care system; powers and duties of the director; expenditure limitation

A. The Arizona long-term care system is established. The system includes the management and delivery of hospitalization, medical care, institutional services and home and community based services to members through the administration, the program contractors and providers pursuant to this article together with federal participation under title XIX of the social security act. The director in the performance of all duties shall consider the use of existing programs, rules and procedures in the counties and department where appropriate in meeting federal requirements.

B. The administration has full operational responsibility for the system which shall include the following:

1. Contracting with and certification of program contractors in compliance with all applicable federal laws.

2. Approving the program contractors' comprehensive service delivery plans pursuant to section 36-2940.

3. Providing by rule for the ability of the director to review and approve or disapprove program contractors' request for proposals for providers and provider subcontracts.

4. Providing technical assistance to the program contractors.

5. Developing a uniform accounting system to be implemented by program contractors and providers of institutional services and home and community based services.

6. Conducting quality control on eligibility determinations and preadmission screenings.

7. Establishing and managing a comprehensive system for assuring the quality of care delivered by the system as required by federal law.

8. Establishing an enrollment system.

9. Establishing a member case management tracking system.

10. Establishing and managing a method to prevent fraud by applicants, members, eligible persons, program contractors, providers and noncontracting providers as required by federal law.

11. Coordinating benefits as provided in section 36-2946.

12. Establishing standards for the coordination of services.

13. Establishing financial and performance audit requirements for program contractors, providers and noncontracting providers.

14. Prescribing remedies as required pursuant to the provisions of 42 United States Code section 1396r. These remedies may include the appointment of temporary management by the director, acting in collaboration with the director of the department of health services, in order to continue operation of a nursing care institution providing services pursuant to this article.

15. Establishing a system to implement medical child support requirements, as required by federal law. The administration may enter into

an intergovernmental agreement with the department of economic security to implement the provisions of this paragraph.

16. Establishing requirements and guidelines for the review of trusts for the purposes of establishing eligibility for the system pursuant to section 36-2934.01 and post-eligibility treatment of income pursuant to subsection L of this section.

Ch. 153 — 17. ACCEPTING THE DELEGATION OF AUTHORITY FROM THE DEPARTMENT OF HEALTH SERVICES TO ENFORCE RULES THAT PRESCRIBE MINIMUM CERTIFICATION STANDARDS FOR ADULT FOSTER CARE PROVIDERS PURSUANT TO SECTION 36-410, SUBSECTION B. THE ADMINISTRATION MAY CONTRACT WITH ANOTHER ENTITY TO PERFORM THE CERTIFICATION FUNCTIONS.

C. For nursing care institutions and hospices that provide services pursuant to this article, the director shall periodically as deemed necessary and as required by federal law contract for a financial audit of the institutions and hospices that is certified by a certified public accountant in accordance with generally accepted auditing standards or conduct or contract for a financial audit or review of the institutions and hospices. The director shall notify the nursing care institution and hospice at least sixty days ~~prior to~~ BEFORE beginning a periodic audit. The administration shall reimburse a nursing care institution or hospice for any additional expenses incurred for professional accounting services obtained in response to a specific request by the administration. ~~Upon~~ ON request, the director of the administration shall provide a copy of an audit performed pursuant to this subsection to the director of the department of health services or ~~his~~ THAT PERSON'S designee.

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D. Notwithstanding any other provision of this article, the administration may contract by an intergovernmental agreement with an Indian tribe, a tribal council or a tribal organization for the provision of long-term care services pursuant to section 36-2939, subsection A, paragraphs 1, 2, 3 and 4 and the home and community based services pursuant to section 36-2939, subsection B, paragraph 2 and subsection C, subject to the restrictions in section 36-2939, subsections D and E for eligible members.

E. The director shall require as a condition of a contract that all records relating to contract compliance are available for inspection by the administration subject to subsection F of this section and that these records ~~shall be~~ ARE maintained for five years. The director shall also require that these records ~~shall be made~~ ARE available on request of the secretary of the United States department of health and human services or its successor agency.

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F. Subject to applicable law relating to privilege and protection, the director shall adopt rules prescribing the types of information that are confidential and circumstances under which that information may be used or released, including requirements for physician-patient confidentiality. Notwithstanding any other law, these rules shall provide for the exchange of necessary information among the program contractors, the administration and the department for the purposes of eligibility determination under this article.

G. The director shall adopt rules which specify methods for the transition of members into, within and out of the system. The rules shall

include provisions for the transfer of members, the transfer of medical records and the initiation and termination of services.

H. The director shall adopt rules which provide for withholding or forfeiting payments made to a program contractor if it fails to comply with a provision of its contract or with the director's rules.

I. The director shall:

~~1. Establish by rule a grievance and appeal procedure, including time limits for appeals of eligibility, for use by program contractors, providers, noncontracting providers, counties, members, eligible persons, those persons who apply to be providers and those persons who apply to be members, including persons who have been determined to be ineligible for system coverage. Grievance procedures shall cover grievances arising pursuant to this article. With the exception of eligibility appeals and grievances filed pursuant to section 36-2904, subsection H, a grievance or appeal shall be filed in writing with and received by the administration not later than sixty days after the date of the adverse action, decision or policy implementation being grieved. A grievance for the denial of a claim for reimbursement for services may contest the validity of any adverse action, decision, policy implementation or rule that related to or resulted in the full or partial denial of the claim. The grievance and appeal procedure shall contain provisions relating to the notice to be provided to aggrieved parties, including notification of final decisions, complaint processes and internal appeals mechanisms. A grievance and appeal procedure not specified pursuant to this paragraph, but identified pursuant to title 41, chapter 6, article 6, also applies. Final decisions of the director under the grievance and appeal procedure established pursuant to this paragraph are subject to judicial review under title 12, chapter 7, article 6.~~

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1. ESTABLISH BY RULE THE TIME FRAMES AND PROCEDURES FOR ALL GRIEVANCES AND REQUESTS FOR HEARINGS CONSISTENT WITH SECTION 36-2903.01, SUBSECTION B, PARAGRAPH 4.

2. Apply for and accept federal monies available under title XIX of the social security act in support of the system. In addition, the director may apply for and accept grants, contracts and private donations in support of the system.

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3. ~~No~~ NOT less than thirty days ~~prior to the implementation of~~ BEFORE THE ADMINISTRATION IMPLEMENTS a policy or a change to an existing policy relating to reimbursement, ~~the director shall~~ provide notice to interested parties. Parties interested in receiving notification of policy changes shall submit a written request for notification to the administration.

J. The director may apply for federal monies available for the support of programs to investigate and prosecute violations arising from the administration and operation of the system. Available state monies appropriated for the administration of the system may be used as matching monies to secure federal monies pursuant to this subsection.

K. The director shall adopt rules which establish requirements of state residency and qualified alien status as prescribed in section 36-2903.03. The administration shall enforce these requirements as part of the eligibility determination process. The rules shall also provide for the

determination of the applicant's county of residence for the purpose of assignment of the appropriate program contractor.

L. The director shall adopt rules in accordance with the state plan regarding post-eligibility treatment of income and resources which determine the portion of a member's income which shall be available for payment for services under this article. The rules shall provide that a portion of income may be retained for:

1. A personal needs allowance for members receiving institutional services of at least fifteen per cent of the maximum monthly supplemental security income payment for an individual or a personal needs allowance for members receiving home and community based services based on a reasonable assessment of need.

2. The maintenance needs of a spouse or family at home shall be in accordance with federal law. The minimum resource allowance for the spouse or family at home ~~shall be~~ IS twelve thousand dollars adjusted annually by the same percentage as the percentage change in the consumer price index for all urban consumers (all items; United States city average) between September 1988 and the September before the calendar year involved.

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3. Expenses incurred for noncovered medical or remedial care that are not subject to payment by a third party payor.

M. In addition to the rules otherwise specified in this article, the director may adopt necessary rules pursuant to title 41, chapter 6 to carry out this article. Rules adopted by the director pursuant to this subsection may consider the differences between rural and urban conditions on the delivery of services.

N. The director shall not adopt any rule or enter into or approve any contract or subcontract which does not conform to federal requirements or which may cause the system to lose any federal monies to which it is otherwise entitled.

O. The administration, program contractors and providers may establish and maintain review committees dealing with the delivery of care. Review committees and their staff are subject to the same requirements, protections, privileges and immunities prescribed pursuant to section 36-2917.

P. If the director determines that the financial viability of a nursing care institution or hospice is in question the director may require a nursing care institution and a hospice providing services pursuant to this article to submit quarterly financial statements within thirty days after the end of its financial quarter unless the director grants an extension in writing before that date. Quarterly financial statements submitted to the department shall include the following:

1. A balance sheet detailing the institution's assets, liabilities and net worth.

2. A statement of income and expenses, including current personnel costs and full-time equivalent statistics.

Q. The director may require monthly financial statements if he determines that the financial viability of a nursing care institution or hospice is in question. The director shall prescribe the requirements of these statements.

R. The total amount of state monies that may be spent in any fiscal year by the administration for long-term care shall not exceed the amount appropriated or authorized by section 35-173 for that purpose. This article shall not be construed to impose a duty on an officer, agent or employee of this state to discharge a responsibility or to create any right in a person or group if the discharge or right would require an expenditure of state monies in excess of the expenditure authorized by legislative appropriation for that specific purpose.

EXPLANATION OF BLEND
SECTION 36-2982

Laws 2001, Chapters 360 and 385

Laws 2001, Ch. 360, section 1 — Effective August 9

Laws 2001, Ch. 385, section 9 — Effective October 1

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 360 and Ch. 385 text changes to section 36-2982 are blended in the form shown on the following pages.

Section 36-2982 was amended an additional time by Laws 2001, Ch. 344 with a conditional enactment that will require a separate blend in addition to this blend.

BLEND OF SECTION 36-2982
Laws 2001, Chapters 360 and 385

36-2982. Children's health insurance program; administration; nonentitlement; enrollment limitation; eligibility

A. The children's health insurance program is established for children who are eligible pursuant to section 36-2981, paragraph 6. The administration shall administer the program. All covered services shall be provided by health plans that have contracts with the administration pursuant to section 36-2906, by a qualifying plan or by either tribal facilities or the Indian health service for Native Americans who are eligible for the program and who elect to receive services through the Indian health service or a tribal facility.

B. This article does not create a legal entitlement for any applicant or member who is eligible for the program. Total enrollment is limited based on the annual appropriations made by the legislature and the enrollment cap prescribed in section 36-2985.

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C. ~~Beginning on October 1, 1997,~~ The director shall take all steps necessary to implement the administrative structure for the program and to begin delivering services to persons within sixty days after approval of the state plan by the United States department of health and human services.

D. The administration shall perform eligibility determinations for persons applying for eligibility and annual redeterminations for continued eligibility pursuant to this article.

E. The administration shall adopt rules for the collection of copayments from members whose income does not exceed one hundred fifty per cent of the federal poverty level and for the collection of copayments and premiums from members whose income exceeds one hundred fifty per cent of the federal poverty level. The director shall adopt rules for disenrolling a member if the member does not pay the premium required pursuant to this section. THE DIRECTOR SHALL ADOPT RULES TO PRESCRIBE THE CIRCUMSTANCES UNDER WHICH THE ADMINISTRATION SHALL GRANT A HARDSHIP EXEMPTION TO THE DISENROLLMENT REQUIREMENTS OF THIS SUBSECTION FOR A MEMBER WHO IS NO LONGER ABLE TO PAY THE PREMIUM.

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F. Before enrollment, a member, or if the member is a minor, that member's parent or legal guardian, shall select an available health plan in the member's geographic service area or a qualifying health plan offered in the county, and may select a primary care physician or primary care practitioner from among the available physicians and practitioners participating with the contractor in which the member is enrolled. The contractors shall only reimburse costs of services or related services provided by or under referral from a primary care physician or primary care practitioner participating in the contract in which the member is enrolled, except for emergency services that shall be reimbursed pursuant to section 36-2987. The director shall establish requirements as to the minimum time period that a member is assigned to specific contractors. An eligible child,

or that child's parent or guardian, may elect to receive direct, sliding fee scale medical and health care services from qualifying health centers pursuant to section 36-2907.06, subsection G, and from hospitals pursuant to section 36-2907.08. An eligible child, or that child's parent or guardian, who elects direct services shall not be enrolled with a qualifying plan unless the child, or that child's parent or guardian, elects to receive services pursuant to this article.

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G. Eligibility for the program ~~shall be counted as~~ IS creditable coverage as defined in section 20-1379.

H. On application for eligibility for the program, the member, or if the member is a minor, the member's parent or guardian, shall receive an application for and a program description of the premium sharing

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~~demonstration project if the member resides in a county chosen to participate in that project~~ PROGRAM.

I. Notwithstanding section 36-2983, the administration may purchase for a member employer sponsored group health insurance with state and federal monies available pursuant to this article, subject to any restrictions imposed by the federal health care financing administration. This subsection does not apply to members who are eligible for health benefits coverage under a state health benefits plan based on a family member's employment with a public agency in this state.

EXPLANATION OF BLEND
SECTION 36-2982

Laws 2001, Chapters 344, 360 and 385

Laws 2001, Ch. 344, section 81	Conditionally effective
Laws 2001, Ch. 360, section 1	Effective August 9
Laws 2001, Ch. 385, section 9	Effective October 1

Explanation

Since these three enactments are not incompatible, the Laws 2001, Ch. 344, Ch. 360 and Ch. 385 text changes to section 36-2982 are blended in the form shown on the following pages.

The publisher will print this blend version pending the occurrence of the condition stated in Laws 2001, Ch. 344. If the condition does not occur before October 1, 2001, Laws 2001, Ch. 344 does not become effective and the publisher will delete this blend version of section 36-2982.

BLEND OF SECTION 36-2982
Laws 2001, Chapters 344, 360 and 385

36-2982. Children's health insurance program; administration; nonentitlement; enrollment limitation; eligibility

A. The children's health insurance program is established for children who are eligible pursuant to section 36-2981, paragraph 6. The administration shall administer the program. All covered services shall be provided by health plans that have contracts with the administration pursuant to section 36-2906, by a qualifying plan or by either tribal facilities or the Indian health service for Native Americans who are eligible for the program and who elect to receive services through the Indian health service or a tribal facility.

B. This article does not create a legal entitlement for any applicant or member who is eligible for the program. Total enrollment is limited based on the annual appropriations made by the legislature and the enrollment cap prescribed in section 36-2985.

Chs. 360 and 385 C. ~~Beginning on October 1, 1997,~~ The director shall take all steps necessary to implement the administrative structure for the program and to begin delivering services to persons within sixty days after approval of the state plan by the United States department of health and human services.

D. The administration shall perform eligibility determinations for persons applying for eligibility and annual redeterminations for continued eligibility pursuant to this article.

E. The administration shall adopt rules for the collection of copayments from members whose income does not exceed one hundred fifty per cent of the federal poverty level and for the collection of copayments and premiums from members whose income exceeds one hundred fifty per cent of the federal poverty level. The director shall adopt rules for disenrolling a member if the member does not pay the premium required pursuant to this section. Ch. 360 THE DIRECTOR SHALL ADOPT RULES TO PRESCRIBE THE CIRCUMSTANCES UNDER WHICH THE ADMINISTRATION SHALL GRANT A HARDSHIP EXEMPTION TO THE DISENROLLMENT REQUIREMENTS OF THIS SUBSECTION FOR A MEMBER WHO IS NO LONGER ABLE TO PAY THE PREMIUM.

F. Before enrollment, a member, or if the member is a minor, that member's parent or legal guardian, shall select an available health plan in the member's geographic service area or a qualifying health plan offered in the county, and may select a primary care physician or primary care practitioner from among the available physicians and practitioners participating with the contractor in which the member is enrolled. The contractors shall only reimburse costs of services or related services provided by or under referral from a primary care physician or primary care practitioner participating in the contract in which the member is enrolled, except for emergency services that shall be reimbursed pursuant to section 36-2987. The director shall establish requirements as to the minimum time

period that a member is assigned to specific contractors. ~~An eligible child, or that child's parent or guardian, may elect to receive direct, sliding fee scale medical and health care services from qualifying health centers pursuant to section 36-2907.06, subsection G, and from hospitals pursuant to section 36-2907.08. An eligible child, or that child's parent or guardian, who elects direct services shall not be enrolled with a qualifying plan unless the child, or that child's parent or guardian, elects to receive services pursuant to this article.~~

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Chs. 360 and 385

G. Eligibility for the program ~~shall be counted as~~ IS creditable coverage as defined in section 20-1379.

H. On application for eligibility for the program, the member, or if the member is a minor, the member's parent or guardian, shall receive an application for and a program description of the premium sharing ~~demonstration project if the member resides in a county chosen to participate in that project~~ PROGRAM.

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I. Notwithstanding section 36-2983, the administration may purchase for a member employer sponsored group health insurance with state and federal monies available pursuant to this article, subject to any restrictions imposed by the federal health care financing administration. This subsection does not apply to members who are eligible for health benefits coverage under a state health benefits plan based on a family member's employment with a public agency in this state.

EXPLANATION OF BLEND
SECTION 36-2983

Laws 2001, Chapters 344 and 360

Laws 2001, Ch. 344, section 82 — Conditionally effective

Laws 2001, Ch. 360, section 2 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 344 and Ch. 360 text changes to section 36-2983 are blended in the form shown on the following pages.

The publisher will print this blend version pending the occurrence of the condition stated in Laws 2001, Ch. 344. If the condition does not occur before October 1, 2001, Laws 2001, Ch. 344 does not become effective and the publisher will delete this blend version of section 36-2983.

BLEND OF SECTION 36-2983
Laws 2001, Chapters 344 and 360

36-2983. Eligibility for the program

A. The administration shall establish a streamlined eligibility process for applicants to the program and shall issue a certificate of eligibility at the time eligibility for the program is determined. Eligibility shall be based on gross household income for a member as defined in section 36-2981. The administration shall not apply a resource test in the eligibility determination or redetermination process.

B. The administration shall use a simplified eligibility form that may be mailed to the administration. Once a completed application is received, including adequate verification of income, the administration shall expedite the eligibility determination and enrollment on a prospective basis.

C. The date of eligibility is the first day of the month following a determination of eligibility if the decision is made by the twenty-fifth day of the month. A person who is determined eligible for the program after the twenty-fifth day of the month is eligible for the program the first day of the second month following the determination of eligibility.

~~D. Each person who applies for services pursuant to section 11-297, 36-2905 or 36-2905.03 shall be screened for potential eligibility for services provided pursuant to this article. If the person appears to be eligible for services the screening agency shall make a referral to the administration.~~ Ch. 344

E. ~~E.~~ D. An applicant for the program who appears to be eligible pursuant to section 36-2901, paragraph ~~4~~ 6, subdivision ~~(b)~~ (a) shall have a social security number or shall apply for a social security number within thirty days after the applicant submits an application for the program.

~~F.~~ E. In order to be eligible for the program, a person shall be a resident of this state and shall meet title XIX requirements for United States citizenship or qualified alien status in the manner prescribed in section 36-2903.03.

~~G.~~ F. In determining the eligibility for all qualified aliens pursuant to this article, the income and resources of a person who executed an affidavit of support pursuant to section 213A of the immigration and nationality act on behalf of the qualified alien and the income and resources of the spouse, if any, of the sponsoring individual shall be counted at the time of application and for the redetermination of eligibility for the duration of the attribution period as specified in federal law.

~~H.~~ G. Pursuant to federal law, a person is not eligible for the program if that person is:

1. Eligible for title XIX or other federally operated or financed health care insurance programs, except the Indian health service.

2. Covered by any group health plan or other health insurance coverage as defined in section 2791 of the public health service act. Group health plan or other health insurance coverage does not include coverage to persons

Ch. 344 who are defined as eligible pursuant to ~~section 36-2901, paragraph 4, subdivision (a), (c) or (h) or~~ the premium sharing program.

3. A member of a family that is eligible for health benefits coverage under a state health benefit plan based on a family member's employment with a public agency in this state.

4. An inmate of a public institution or a patient in an institution for mental diseases. This paragraph does not apply to services furnished in a state operated mental hospital or to residential or other twenty-four hour therapeutically planned structured services.

~~I.~~ H. A child who is covered under an employer's group health insurance plan or through family or individual health care coverage shall not be enrolled in the program. If the health insurance coverage is voluntarily discontinued for any reason, except for the loss of health insurance due to loss of employment or other involuntary reason, the child is not eligible for the program for a period of ~~six~~ THREE months from the date that the health care coverage was discontinued. THE ADMINISTRATION MAY WAIVE THE THREE MONTH PERIOD FOR ANY CHILD WHO IS SERIOUSLY OR CHRONICALLY ILL. FOR THE PURPOSES OF THE WAIVER "CHRONICALLY ILL" MEANS A MEDICAL CONDITION THAT REQUIRES FREQUENT AND ONGOING TREATMENT AND THAT IF NOT PROPERLY TREATED WILL
Ch. 360 SERIOUSLY AFFECT THE CHILD'S OVERALL HEALTH. THE ADMINISTRATION SHALL ESTABLISH RULES TO FURTHER DEFINE CONDITIONS THAT CONSTITUTE A SERIOUS OR CHRONIC ILLNESS. BEGINNING ON JANUARY 1, 2002, IN THE ANNUAL REPORT REQUIRED PURSUANT TO SECTION 36-2996, THE ADMINISTRATION SHALL PROVIDE THE CONDITIONS AND THE NUMBER OF CHILDREN INCLUDED IN EACH CATEGORY.

~~J.~~ I. Pursuant to federal law, a private insurer, as defined by the secretary of the United States department of health and human services, shall not limit enrollment by contract or any other means based on the presumption that a child may be eligible for the program.

EXPLANATION OF BLEND
SECTION 36-2989

Laws 2001, Chapters 344 and 360

Laws 2001, Ch. 344, section 85	Conditionally effective
Laws 2001, Ch. 360, section 4	Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 344 and Ch. 360 text changes to section 36-2989 are blended in the form shown on the following pages.

The publisher will print this blend version pending the occurrence of the condition stated in Laws 2001, Ch. 344. If the condition does not occur before October 1, 2001, Laws 2001, Ch. 344 does not become effective and the publisher will delete this blend version of section 36-2989.

BLEND OF SECTION 36-2989
Laws 2001, Chapters 344 and 360

36-2989. Covered health and medical services; modifications; related delivery of service requirements

A. Except as provided in this section, ~~the director shall establish a specific health benefits coverage package that is as nearly as practicable the same as the least expensive health benefits coverage plan or plans that are offered through a health care services organization available to state employees under section 38-651. The package shall include the following covered services:~~ BEGINNING ON OCTOBER 1, 2001, HEALTH AND MEDICAL SERVICES AS DEFINED IN SECTION 36-2907 ARE COVERED SERVICES AND INCLUDE: Ch. 360

1. Inpatient hospital services that are ordinarily furnished by a hospital for the care and treatment of inpatients, that are medically necessary and that are provided under the direction of a physician or a primary care practitioner. For the purposes of this paragraph, inpatient hospital services exclude services in an institution for tuberculosis or mental diseases unless authorized by federal law.

2. Outpatient health services that are medically necessary and ordinarily provided in hospitals, clinics, offices and other health care facilities by licensed health care providers. For the purposes of this paragraph, "outpatient health services" includes services provided by or under the direction of a physician or a primary care practitioner.

3. Other laboratory and X-ray services ordered by a physician or a primary care practitioner.

4. Medications that are medically necessary and ordered on prescription by a physician, a primary care practitioner or a dentist licensed pursuant to title 32, chapter 11.

5. Medical supplies, equipment and prosthetic devices.

6. Treatment of medical conditions of the eye including ~~one~~ eye ~~examination each year~~ EXAMINATIONS for prescriptive lenses and the provision ~~of one set~~ of prescriptive lenses ~~each year~~ for members. Ch. 360

7. Medically necessary dental services.

8. Well child services, immunizations and prevention services.

9. Family planning services that do not include abortion or abortion counseling. If a contractor elects not to provide family planning services, this election does not disqualify the contractor from delivering all other covered health and medical services under this article. In that event, the administration may contract directly with another contractor, including an outpatient surgical center or a noncontracting provider, to deliver family planning services to a member who is enrolled with a contractor who elects not to provide family planning services.

10. Podiatry services that are performed by a podiatrist licensed pursuant to title 32, chapter 7 and that are ordered by a primary care physician or primary care practitioner.

11. Medically necessary pancreas, heart, liver, kidney, cornea, lung and heart-lung transplants and autologous and allogeneic bone marrow transplants and immunosuppressant medications for these transplants ordered

on prescription by a physician licensed pursuant to title 32, chapter 13 or 17.

12. Medically necessary emergency AND NONEMERGENCY transportation.

13. Inpatient and outpatient behavioral health services THAT ARE THE SAME AS THE LEAST RESTRICTIVE HEALTH BENEFITS COVERAGE PLAN FOR BEHAVIORAL HEALTH SERVICES THAT ARE OFFERED THROUGH A HEALTH CARE SERVICES ORGANIZATION FOR STATE EMPLOYEES UNDER SECTION 38-651. ~~Inpatient behavioral health services are limited to not more than thirty days for each twelve month period from the date of initial enrollment or the redetermination of eligibility. Outpatient behavioral services are limited to not more than thirty visits for each twelve month period from the date of initial enrollment or the redetermination of eligibility.~~ Ch. 360

B. The administration shall pay noncontracting providers only for health and medical services as prescribed in subsection A of this section.

C. To the extent possible and practicable, the administration and contractors shall provide for the prior approval of medically necessary services provided pursuant to this article.

D. The director shall make available home health services in lieu of hospitalization pursuant to contracts awarded under this article.

E. Behavioral health services shall be provided to members through the administration's intergovernmental agreement with the division of behavioral health in the department of health services. The division of behavioral health in the department of health services shall use its established diagnostic and evaluation program for referrals of children who are not already enrolled pursuant to this article and who may be in need of behavioral health services. In addition to an evaluation, the division of behavioral health shall also identify children who may be eligible under section 36-2901, paragraph ~~4~~ 6, subdivision ~~(b)~~ (a) or section 36-2931, paragraph 5 and shall refer the children to the appropriate agency responsible for making the final eligibility determination. ~~Members who are eighteen years of age and who are not seriously mentally ill shall be referred to the contractors for behavioral health services.~~ Ch. 344 — Chs. 344 and 360

F. The director shall adopt rules for the provision of transportation services for members. Prior authorization is not required for medically necessary ambulance transportation services rendered to members initiated by dialing telephone number 911 or other designated emergency response systems.

G. The director may adopt rules to allow the administration to use a second opinion procedure under which surgery may not be eligible for coverage pursuant to this article without documentation as to need by at least two physicians or primary care practitioners.

H. All health and medical services provided under this article shall be provided in the ~~county of residence~~ GEOGRAPHIC SERVICE AREA of the member, except:

1. Emergency services and specialty services.

2. The director may permit the delivery of health and medical services in other than the ~~county of residence~~ GEOGRAPHIC SERVICE AREA in this state or in an adjoining state if it is determined that medical practice patterns justify the delivery of services ~~in other than the county of residence~~ or a net reduction in transportation costs can reasonably be expected. Ch. 344

Notwithstanding section 36-2981, paragraph 8 or 11, if services are procured from a physician or primary care practitioner in an adjoining state, the physician or primary care practitioner shall be licensed to practice in that state pursuant to licensing statutes in that state that are similar to title 32, chapter 13, 15, 17 or 25.

I. Covered outpatient services shall be subcontracted by a primary care physician or primary care practitioner to other licensed health care providers to the extent practicable for purposes of making health care services available to underserved areas, reducing costs of providing medical care and reducing transportation costs.

J. The director shall adopt rules that prescribe the coordination of medical care for members and that include a mechanism to transfer members and medical records and initiate medical care.

K. The director shall adopt rules for the reimbursement of specialty services provided to the member if authorized by the member's primary care physician or primary care practitioner.

EXPLANATION OF BLEND
SECTION 36-3408

Laws 2001, Chapters 60 and 344

Laws 2001, Ch. 60, section 1 — Effective August 9

Laws 2001, Ch. 344, section 87 — Conditionally effective

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 60 and Ch. 344 text changes to section 36-3408 are blended in the form shown on the following page.

The publisher will print this blend version pending the occurrence of the condition stated in Laws 2001, Ch. 344. If the condition does not occur before October 1, 2001, Laws 2001, Ch. 344 does not become effective and the publisher will delete this blend version of section 36-3408.

BLEND OF SECTION 36-3408
Laws 2001, Chapters 60 and 344

36-3408. Eligibility for behavioral health service system; screening process; required information

A. Any person who requests behavioral health services pursuant to this chapter or the person's parent or legal guardian shall comply with a preliminary financial screening and eligibility process developed by the department of health services in coordination with the Arizona health care cost containment system administration and administered at the initial intake level. A PERSON WHO RECEIVES BEHAVIORAL HEALTH SERVICES PURSUANT TO THIS CHAPTER AND WHO HAS NOT BEEN DETERMINED ELIGIBLE FOR TITLE XIX OR TITLE XXI SERVICES SHALL COMPLY ANNUALLY WITH THE ELIGIBILITY DETERMINATION PROCESS. If the results indicate that the person may be title XIX eligible, in order to continue to receive services pursuant to this chapter, the applicant shall submit a completed application within ten working days to the social security administration, the department of economic security or the Arizona health care cost containment system ADMINISTRATION[,] which shall determine the applicant's eligibility pursuant to section 36-2901, paragraph [~~4~~ 6], subdivision [~~(b)~~ (a)] ~~or~~, section 36-2931, paragraph 5 OR SECTION 36-2981, PARAGRAPH 6 for health and medical or long-term care services. THE APPLICANT SHALL COOPERATE FULLY WITH THE ELIGIBILITY DETERMINATION PROCESS. If the person is in need of emergency services provided pursuant to this chapter, the person may begin to receive these services immediately provided that within five days from the date of service a financial screening is initiated.

B. Applicants, except applicants for seriously mentally ill services, who refuse to cooperate in the financial screening and eligibility process are not eligible for services pursuant to this chapter. A form explaining loss of benefits due to refusal to cooperate shall be signed by the applicant. Refusal to cooperate shall not be construed to mean the applicant's inability to obtain documentation required for eligibility determination. THE DEPARTMENT OF ECONOMIC SECURITY AND THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION SHALL PROMPTLY INFORM THE DEPARTMENT OF HEALTH SERVICES OF THE APPLICATIONS THAT ARE DENIED BASED ON AN APPLICANT'S FAILURE TO COOPERATE WITH THE ELIGIBILITY DETERMINATION PROCESS AND, ON REQUEST, OF APPLICANTS WHO DO NOT SUBMIT AN APPLICATION AS REQUIRED BY THIS SECTION.

C. The department of economic security ~~shall~~, in coordination with the department of health services, SHALL provide on-site eligibility determinations at appropriate program locations subject to legislative appropriation.

D. This section only applies to persons who receive services that are provided pursuant to this section and that are paid for in whole or in part with state funds.

E. A person who requests treatment services under this chapter shall provide personally identifying information required by the department of health services.

F. EXCEPT AS OTHERWISE PROVIDED BY LAW, THIS SECTION AND COOPERATION WITH THE ELIGIBILITY DETERMINATION PROCESS DO NOT ENTITLE ANY PERSON TO ANY PARTICULAR SERVICES THAT ARE SUBJECT TO LEGISLATIVE APPROPRIATION.

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EXPLANATION OF BLEND
SECTION 38-651

Laws 2001, Chapters 127 and 288

Laws 2001, Ch. 127, section 2	Effective August 9
Laws 2001, Ch. 288, section 1	Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 127 and Ch. 288 text changes to section 38-651 are blended in the form shown on the following pages.

BLEND OF SECTION 38-651
Laws 2001, Chapters 127 and 288

38-651. Expenditure of funds for health and accident insurance

A. The department of administration may expend public monies appropriated for such purpose to procure health and accident coverage for full-time officers and employees of the state and its departments and agencies. The department of administration may adopt rules which provide that if an employee dies while the employee's surviving spouse's health insurance is in force, the surviving spouse shall be entitled to no more than thirty-six months of extended coverage at one hundred two per cent of the group rates by paying the premiums. No public monies may be expended to pay all or any part of the premium of health insurance continued in force by the surviving spouse. The department of administration shall seek a variety of plans, including indemnity health insurance, hospital and medical service plans, dental plans and health maintenance organizations. On a recommendation of the department of administration and the approval of the joint legislative budget committee, the department of administration may self-insure for the purposes of this subsection. If the department of administration self-insures, the department may contract directly with preferred provider organizations, physician and hospital networks, indemnity health insurers, hospital and medical service plans, dental plans and health maintenance organizations. The department of administration by rule shall designate and adopt performance standards, including cost competitiveness, utilization review issues, network development and access, conversion and implementation, report timeliness, quality outcomes and customer satisfaction for qualifying plans. The qualifying plans for which the standards are adopted include indemnity health insurance, hospital and medical service plans, closed panel medical and dental plans and health maintenance organizations, and for eligibility of officers and employees to participate in such plans. Any indemnity health insurance or hospital and medical service plan designated as a qualifying plan by the department of administration must be open for enrollment to all permanent full-time state employees, except that any plan established prior to June 6, 1977 may be continued as a separate plan. Any closed panel medical or dental plan or health maintenance organization designated as the qualifying plan by the department of administration must be open for enrollment to all permanent full-time state employees residing within the geographic area or area to be served by the plan or organization. Officers and employees may select coverage under the available options.

B. The department of administration may expend public monies appropriated for such purpose to procure health and accident coverage for the dependents of full-time officers and employees of the state and its departments and agencies. The department of administration shall seek a variety of plans, including indemnity health insurance, hospital and medical service plans, dental plans and health maintenance organizations. On a recommendation of the department of administration and the approval of the

joint legislative budget committee, the department of administration may self-insure for the purposes of this subsection. If the department of administration self-insures, the department may contract directly with preferred provider organizations, physician and hospital networks, indemnity health insurers, hospital and medical service plans, dental plans and health maintenance organizations. The department of administration by rule shall designate and adopt performance standards, including cost competitiveness, utilization review issues, network development and access, conversion and implementation, report timeliness, quality outcomes and customer satisfaction for qualifying plans. The qualifying plans for which the standards are adopted include indemnity health insurance, hospital and medical service plans, closed panel medical and dental plans and health maintenance organizations, and for eligibility of the dependents of officers and employees to participate in such plans. Any indemnity health insurance or hospital and medical service plan designated as a qualifying plan by the department of administration must be open for enrollment to all permanent full-time state employees, except that any plan established prior to June 6, 1977 may be continued as a separate plan. Any closed panel medical or dental plan or health maintenance organization designated as a qualifying plan by the department of administration must be open for enrollment to all permanent full-time state employees residing within the geographic area or area to be served by the plan or organization. Officers and employees may select coverage under the available options.

C. The department of administration shall designate the Arizona health care cost containment system established by title 36, chapter 29 as a qualifying plan for the provision of health and accident coverage to full-time state officers and employees and their dependents. The Arizona health care cost containment system shall not be the exclusive qualifying plan for health and accident coverage for state officers and employees either on a statewide or regional basis.

D. Except as provided in section 38-652, public monies expended pursuant to this section each month shall not exceed:

1. ~~Two hundred fifteen~~ FIVE HUNDRED dollars multiplied by the number of officers and employees who receive individual coverage.

2. ~~Four hundred sixty~~ ONE THOUSAND TWO HUNDRED dollars multiplied by the number of married couples if both members of the couple are either officers or employees and each receives individual coverage or family coverage.

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3. ~~Four hundred sixty~~ ONE THOUSAND TWO HUNDRED dollars multiplied by the number of officers or employees who receive family coverage if the spouses of the officers or employees are not officers or employees.

E. Subsection D of this section:

1. Establishes a total maximum expenditure of public monies pursuant to this section.

2. Does not establish a minimum or maximum expenditure for each individual officer or employee.

F. In order to ensure that an officer or employee does not suffer a financial penalty or receive a financial benefit based on the officer's or

employee's age, gender or health status, the department of administration shall consider implementing the following:

1. Requests for proposals for health insurance that specify that the carrier's proposed premiums for each plan be based on the expected age, gender and health status of the entire pool of employees and officers and their family members enrolled in all qualifying plans and not on the age, gender or health status of the individuals expected to enroll in the particular plan for which the premium is proposed.

2. Recommendations from a legislatively established study group on risk adjustments relating to a system for reallocating premium revenues among the contracting qualifying plans to the extent necessary to adjust the revenues received by any carrier to reflect differences between the average age, gender and health status of the enrollees in that carrier's plan or plans and the average age, gender and health status of all enrollees in all qualifying plans.

G. Each officer or employee shall certify on the initial application for family coverage that such officer or employee is not receiving more than the contribution for which eligible pursuant to subsection D of this section. Each officer or employee shall also provide such certification on any change of coverage or marital status.

H. If a qualifying health maintenance organization is not available to an officer or employee within fifty miles of the officer's or employee's residence and the officer or employee is enrolled in a qualifying plan, the officer or employee shall be offered the opportunity to enroll with a health maintenance organization when the option becomes available. If a health maintenance organization is available within fifty miles and it is determined by the department of administration that there is an insufficient number of medical providers in the organization, the department may provide for a change in enrollment from plans designated by the director when additional medical providers join the organization.

I. Notwithstanding the provisions of subsection H of this section, officers and employees who enroll in a qualifying plan and reside outside the area of a qualifying health maintenance organization shall be offered the option to enroll with a qualified health maintenance organization offered through their provider under the same premiums as if they lived within the area boundaries of the qualified health maintenance organization, provided that:

1. All medical services are rendered and received at an office designated by the qualifying health maintenance organization or at a facility referred by the health maintenance organization.

2. All nonemergency or nonurgent travel, ambulatory and other expenses from the residence area of the officer or employee to the designated office of the qualifying health maintenance organization or the facility referred by the health maintenance organization shall be the responsibility of and at the expense of the officer or employee.

3. All emergency or urgent travel, ambulatory and other expenses from the residence area of the officer or employee to the designated office of the qualifying health maintenance organization or the facility referred by the health maintenance organization shall be paid pursuant to any agreement

between the health maintenance organization and the officer or employee living outside the area of the qualifying health maintenance organization.

J. The department of administration shall allow any school district in this state that meets the requirements of section 15-388, a charter school in this state that meets the requirements of section 15-187.01 or a city, town, ~~or~~ county, COMMUNITY COLLEGE DISTRICT, SPECIAL TAXING DISTRICT, AUTHORITY OR PUBLIC ENTITY ORGANIZED PURSUANT TO THE LAWS OF THIS STATE that meets the requirements of section 38-656 to participate in the health and accident coverage prescribed in this section. A school district, a charter school, a city, a town, ~~or~~ a county, A COMMUNITY COLLEGE DISTRICT, A SPECIAL TAXING DISTRICT, AN AUTHORITY OR ANY PUBLIC ENTITY ORGANIZED PURSUANT TO THE LAWS OF THIS STATE rather than the state shall pay directly to the benefits provider the premium for its employees.

K. The department of administration shall determine the actual administrative and operational costs associated with school districts, charter schools, cities, towns, ~~and~~ counties, COMMUNITY COLLEGE DISTRICTS, SPECIAL TAXING DISTRICTS, AUTHORITIES AND PUBLIC ENTITIES ORGANIZED PURSUANT TO THE LAWS OF THIS STATE participating in the state health and accident insurance coverage. These costs shall be allocated to each school district, charter school, city, town, ~~and~~ county, COMMUNITY COLLEGE DISTRICT, SPECIAL TAXING DISTRICT, AUTHORITY AND PUBLIC ENTITY ORGANIZED PURSUANT TO THE LAWS OF THIS STATE based upon the total number of employees participating in the coverage.

Ch. 127

L. Insurance providers contracting with the state shall separately maintain records that delineate claims and other expenses attributable to PARTICIPATION OF A school district, charter school, city, town, ~~and~~ county, COMMUNITY COLLEGE DISTRICT, SPECIAL TAXING DISTRICT, AUTHORITY AND PUBLIC ENTITY ORGANIZED PURSUANT TO THE LAWS OF THIS STATE ~~participation~~ in the state health and accident insurance coverage and, by November 1 of each year, shall report to the department of administration the extent to which state costs are impacted by participation of school districts, charter schools, cities, towns, ~~and~~ counties, COMMUNITY COLLEGE DISTRICTS, SPECIAL TAXING DISTRICTS, AUTHORITIES AND PUBLIC ENTITIES ORGANIZED PURSUANT TO THE LAWS OF THIS STATE in the state health and accident insurance coverage. By December 1 of each year, the director of the department of administration shall submit a report to the president of the senate and the speaker of the house of representatives detailing the information provided to the department by the insurance providers and including any recommendations for possible legislative action.

M. Any person that submits a bid to provide health and accident coverage pursuant to this section shall disclose any court or administrative judgments or orders issued against that person within the last ten years before the submittal.

EXPLANATION OF BLEND
SECTION 38-727

Laws 2001, Chapters 136, 280 and 380

Laws 2001, Ch. 136, section 7	Effective August 9
Laws 2001, Ch. 280, section 2	Effective August 9
Laws 2001, Ch. 380, section 3	Effective August 9

Explanation

Since these three enactments are not incompatible, the Laws 2001, Ch. 136, Ch. 280 and Ch. 380 text changes to section 38-727 are blended in the form shown on the following pages.

BLEND OF SECTION 38-727
Laws 2001, Chapters 136, 280 and 380

38-727. Eligibility; options

The following provisions apply to all employees hired on or after the effective date:

1. All employees and officers of this state and all officers and employees of political subdivisions establishing a retirement plan administered by the board pursuant to this article who as a result of state service or service for the political subdivision are included in agreements providing for their coverage under the federal old age and survivors insurance system are subject to this article, except that membership is not mandatory:

(a) On the part of any employee who is eligible and who elects to participate in the optional retirement programs established by the Arizona board of regents pursuant to the authority conferred by section 15-1628 or by a community college district board pursuant to authority conferred by section 15-1451.

(b) For a state elected official who is subject to term limits, who is eligible for participation in ASRS because the state elected official elected not to participate in the elected officials' retirement plan as provided in section 38-804, subsection A and who elects not to participate in ASRS as provided in paragraph 7 of this section.

Chs. 280 and 380

~~(c) For an employee of the legislature who elects as provided in paragraph 8 of this section to participate in a tax deferred annuity and deferred compensation program established pursuant to article 5 of this chapter in lieu of participation in ASRS.~~

~~(d) For exempt state officers or employees as defined in section 38-951 who elect to participate in the defined contribution retirement plan option pursuant to article 8 of this chapter.~~

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(c) ON THE PART OF ANY EMPLOYEE OR OFFICER WHO IS ELIGIBLE TO PARTICIPATE AND WHO PARTICIPATES IN THE ELECTED OFFICIALS' RETIREMENT PLAN PURSUANT TO ARTICLE 3 OF THIS CHAPTER, THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM PURSUANT TO ARTICLE 4 OF THIS CHAPTER OR THE CORRECTIONS OFFICER RETIREMENT PLAN PURSUANT TO ARTICLE 6 OF THIS CHAPTER.

2. All employees and officers of political subdivisions whose compensation is provided wholly or in part from state monies and who are declared to be state employees and officers by the legislature for retirement purposes are subject, on legislative enactment, to this article and are members of ASRS.

3. Any member whose service terminates other than by death or withdrawal from membership is deemed to be a member of ASRS until the member's death benefit is paid.

4. Employees and officers shall not become members of ASRS and, if they are members immediately before becoming employed as provided by this section, shall have their membership status suspended while they are employed by state departments paying the salaries of their officers and employees wholly or in part from monies received from sources other than appropriations from the state general fund for the period or periods payment of the employer contributions is not made by or on behalf of the departments.

5. Notwithstanding other provisions of this section, a temporary employee of the legislature whose projected term of employment is for not more than six months is ineligible for membership in ASRS. If the employment continues beyond six successive months, the employee may elect to either:

(a) Receive credit for service for the first six months of employment and establish membership in ASRS as of the beginning of the current term of employment if, within forty-five days after the first six months of employment, both the employer and the employee contribute to ASRS the amount that would have been required to be contributed to ASRS during the first six months of employment as if the employee had been a member of ASRS during those six months.

(b) Establish membership in ASRS as of the day following the completion of six months of employment.

6. A person who is employed in postgraduate training in an approved medical residency training program of an employer is ineligible for membership in ASRS.

7. A state elected official who is subject to term limits and who is eligible for participation in ASRS because the state elected official elected not to participate in the elected officials' retirement plan as provided in section 38-804, subsection A may elect not to participate in ASRS. The election not to participate is specific for that term of office. The state elected official who is subject to term limits shall make the election in writing and file the election with ASRS within thirty days after the elected official's retirement plan mails the notice to the state elected official of the state elected official's eligibility to participate in ASRS. The election is effective on the first day of the state elected official's eligibility. If a state elected official who is subject to term limits fails to make an election as provided in this paragraph, the state elected official is deemed to have elected to participate in ASRS. The election not to participate in ASRS is irrevocable and constitutes a waiver of all benefits provided by ASRS for the state elected official's entire term, except for any benefits accrued by the state elected official in ASRS for periods of participation prior to being elected to an office subject to term limits or any benefits expressly provided by law.

Chs. 280 and 380

~~8. In lieu of participation in ASRS or the defined contribution retirement plan option pursuant to article 8 of this chapter, an employee of the legislature may elect pursuant to this paragraph to participate in a tax deferred annuity and deferred compensation program established pursuant to article 5 of this chapter. An employee of the legislature shall make the election in writing and file the written election with ASRS. If an employee of the legislature elects to participate in a tax deferred annuity and deferred compensation program pursuant to this paragraph, the election is irrevocable and constitutes a waiver of all benefits provided by ASRS, except for any benefits accrued by the employee before election pursuant to this paragraph. If an employee of the legislature elects to participate in a tax deferred annuity and deferred compensation program pursuant to this paragraph, the employee's employer shall pay an amount equal to five per cent of the employee's base salary directly to the program in lieu of employer contributions to ASRS.~~

EXPLANATION OF BLEND
SECTION 38-729

Laws 2001, Chapters 136, 280 and 380

Laws 2001, Ch. 136, section 8	Effective August 9
Laws 2001, Ch. 280, section 3	Effective August 9
Laws 2001, Ch. 380, section 4	Effective August 9

Explanation

Since the Ch. 136 version includes all of the changes made by the Ch. 280 and Ch. 380 versions, the Laws 2001, Ch. 136 amendment of section 38-729 is the blend of the Laws 2001, Ch. 136, Ch. 280 and Ch. 380 versions.

BLEND OF SECTION 38-729
Laws 2001, Chapters 136, 280 and 380

38-729. Political subdivision plans

A. The governing body of any political subdivision may adopt, by appropriate legislation, a supplemental retirement plan for employees and officers of the political subdivision who are included within agreements entered into between the governing body and the state agency providing for the extension of federal old age and survivors insurance benefits to the officers and employees. The supplemental retirement plan shall provide the same retirement benefits and require the same obligations for entitlement as are provided for other members under this article, except that:

1. The supplemental retirement plan shall specify the date of commencement of the supplemental retirement plan as the first day of the month following board approval of the supplemental plan of the political subdivision as provided in this section.

2. Employer and employee obligations shall be paid to ASRS in accordance with that date.

B. The governing body of the political subdivision shall submit the supplemental retirement plan to the board in the form of an agreement. The agreement shall state the terms of the supplemental retirement plan as provided in this section. The board shall either approve or disapprove the supplemental retirement plan submitted by the governing body of the political subdivision.

C. On approval, the board shall administer the supplemental plan of the political subdivision.

D. The employer's share of contributions and payments in excess of those required of the employer under section 38-737 shall be paid from monies of the political subdivision.

E. On establishment of the supplemental retirement plan the governing body of the political subdivision shall deduct member contributions in the same amounts and in the same manner as provided in this article for state employees and shall pay those contributions, together with the employer contributions for the political subdivision, to ASRS for deposit in the ASRS depository. The governing body of the political subdivision shall reimburse ASRS in a similar manner for its pro rata share of administrative costs attributable to coverage of employees of the political subdivision.

F. In addition to the employer contributions required under section 38-737, on establishment of the supplemental retirement plan the governing body of the political subdivision shall pay to ASRS the amounts, as determined by the board, required to fund additional costs of benefits attributable to service for the political subdivision before the effective date of the supplemental retirement plan. The board may authorize payments to be made at such times as the board requires and in amounts that are less than the amount required for fully funding the additional costs.

G. If the supplemental retirement plan is authorized by a political subdivision, then on or after the effective date of the supplemental

retirement plan the governing body of the political subdivision and the board may sign an agreement to waive the provisions of subsection F of this section and to authorize benefits under the supplemental retirement plan only for service with the political subdivision after the effective date of the supplemental retirement plan. In lieu of waiving benefits for all service before the effective date of the supplemental retirement plan, the governing body of the political subdivision may elect to waive benefits for a portion of that service. Amendments to the agreement may increase but shall not reduce the service for which a member is entitled to benefits. The governing body of the political subdivision shall certify for each member the years of service before the effective date of the supplemental retirement plan for which the member is entitled to benefits. In addition to the employer contributions required in section 38-737, the governing body of the political subdivision shall pay to ASRS the amount, as determined by the board, required to fund the cost of the benefits attributable to service before the effective date of the supplemental retirement plan for which members are entitled to benefits.

H. The new political subdivision shall designate the classification of employees that is eligible for membership in ASRS and shall make contributions each year as provided in this section.

Chs. 136, 280 and 380

~~I. Before the effective date of membership and as a condition of an employer's membership in ASRS, the employer shall formally terminate any existing retirement program administered by the board on behalf of the designated eligible employee group included in ASRS and shall formally agree that no retirement program, exclusive of ASRS and the federal social security system, may thereafter be established on behalf of that group.~~

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~~J. The board shall transfer all assets under any existing retirement program administered by the board, to the extent attributable to the employer's designated employee group, from that program to ASRS no later than sixty days after the effective date of the supplemental retirement plan. The transferred assets shall be considered in determining any additional payments prescribed in subsections F and G of this section.~~

~~K.~~ I. The liability of the political subdivision providing a supplemental retirement plan within ASRS arises in consideration of the officer's or employee's retention in or entrance into service for the political subdivision.

EXPLANATION OF BLEND
SECTION 38-760

Laws 2001, Chapters 136 and 380

Laws 2001, Ch. 136, section 15 — Effective August 9

Laws 2001, Ch. 380, section 7 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 136 and Ch. 380 text changes to section 38-760 are blended in the form shown on the following pages.

BLEND OF SECTION 38-760
Laws 2001, Chapters 136 and 380

38-760. Optional forms of retirement benefits

A. On retirement, members may elect an optional form of retirement benefit as provided in this section.

B. The optional retirement benefits available under this section include the following:

1. Joint and survivor annuity in a reduced amount payable to the retiring member during life, with the provisions that after the member's death all, two-thirds or one-half of the retirement income, as the member elects, shall be continued during the lifetime of the contingent annuitant designated by the retiring member subject to the restrictions prescribed in section 38-764. The amount of retirement income shall be the actuarial equivalent of the retirement income to which the member would be entitled under normal or early retirement. The election in a manner prescribed by the board shall name the contingent annuitant. The election may be revoked at any time before the member's effective date of retirement. At any time after benefits have commenced, the member may name a different contingent annuitant or rescind the election by written notice to the board as follows:

(a) If a different contingent annuitant is named, the annuity of the member under the same joint and survivor annuity option previously elected shall be adjusted to the actuarial equivalent of the original annuity, based on the age of the new contingent annuitant. The adjustment shall include all post-retirement increases in retirement income that are authorized by law after the member's date of retirement. Payment of this adjusted annuity shall continue under the provisions of the option previously elected by the member.

(b) If the member rescinds the election, the member shall thereafter
Ch. 136 — receive a straight life annuity, — equal to what the member would otherwise be entitled to receive if the member had not elected the joint and survivor annuity option, including all post-retirement increases in retirement income that are authorized by law after the date of retirement. The increased payment shall continue during the remainder of the member's lifetime.

(c) If the member reverts to a straight life annuity pursuant to subdivision (b), the member may name a new contingent annuitant subject to the same restrictions prescribed in subdivision (a).

2. A period certain and life annuity actuarially reduced with payments for five, ten or fifteen years that are not dependent on the continued lifetime of the member but whose payments continue for the member's lifetime beyond the five, ten or fifteen year period. AT ANY TIME, A MEMBER WHO RETIRES AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION MAY RESCIND THE ELECTION OF A PERIOD CERTAIN AND LIFE ANNUITY. IF THE MEMBER
Ch. 136 — RESCINDS THE ELECTION OF A PERIOD CERTAIN AND LIFE ANNUITY, THE MEMBER SHALL THEREAFTER RECEIVE A STRAIGHT LIFE ANNUITY EQUAL TO WHAT THE MEMBER WOULD OTHERWISE BE ENTITLED TO RECEIVE IF THE MEMBER HAD NOT ELECTED THE PERIOD CERTAIN AND LIFE ANNUITY OPTION, INCLUDING ALL POSTRETIREMENT INCREASES IN

RETIREMENT INCOME THAT ARE AUTHORIZED BY LAW AFTER THE DATE OF RETIREMENT. THE INCREASED PAYMENT SHALL CONTINUE DURING THE REMAINDER OF THE MEMBER'S LIFETIME. IF THE MEMBER REVERTS TO A STRAIGHT LIFE ANNUITY PURSUANT TO THIS PARAGRAPH, THE MEMBER MAY AGAIN ELECT A PERIOD CERTAIN AND LIFE ANNUITY SUBJECT TO THE SAME PROVISIONS OF THE PERIOD CERTAIN AND LIFE ANNUITY PREVIOUSLY ELECTED BY THE MEMBER.

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3. BEGINNING ON JULY 1, 2002, A LUMP SUM PAYMENT EQUAL TO NOT MORE THAN THIRTY-SIX MONTHS OF THE MEMBER'S RETIREMENT BENEFITS UNDER THE BENEFIT OPTION ELECTED BY THE MEMBER. THE MEMBER'S BENEFIT SHALL BE ACTUARIALLY REDUCED TO PROVIDE FOR THE LUMP SUM PAYMENT. THE LUMP SUM PAYMENT SHALL BE MADE AT THE TIME OF RETIREMENT. ANY BENEFIT INCREASE GRANTED TO A MEMBER WHO ELECTS A LUMP SUM PAYMENT PURSUANT TO THIS PARAGRAPH IS SUBJECT TO THE FOLLOWING CONDITIONS:

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(a) IF THE BENEFIT INCREASE IS A PERCENTAGE INCREASE OF THE MEMBER'S RETIREMENT BENEFIT, THE INCREASE SHALL BE BASED ON THE ACTUARIALLY REDUCED RETIREMENT BENEFIT OF THE MEMBER.

(b) IF THE BENEFIT INCREASE IS PURSUANT TO SECTION 38-767, THE AMOUNT OF THE MEMBER'S BENEFIT INCREASE SHALL BE CALCULATED WITHOUT REGARD TO THE LUMP SUM PAYMENT PURSUANT TO THIS PARAGRAPH.

~~3.~~ 4. Other forms of actuarially reduced optional benefits prescribed by the board.

EXPLANATION OF BLEND
SECTION 38-783

Laws 2001, Chapters 136, 376 and 383

Laws 2001, Ch. 136, section 19	Effective August 9
Laws 2001, Ch. 376, section 1	Effective August 9 (Retroactive to July 1, 2001)
Laws 2001, Ch. 383, section 1	Effective August 9 (Retroactive to July 1, 2001)

Explanation

Since these three enactments are not incompatible, the Laws 2001, Ch. 136, Ch. 376 and Ch. 383 text changes to section 38-783 are blended in the form shown on the following pages.

BLEND OF SECTION 38-783
Laws 2001, Chapters 136, 376 and 383

38-783. Retired members; dependents; health insurance; premium payment; separate account; definitions

Ch. 376 A. Subject to subsection ~~F~~ J of this section, the board shall pay from ASRS assets part of the single coverage premium of any ~~group~~ health and accident insurance for each retired or disabled member of ASRS if the member Ch. 136 elects to participate in the coverage provided by ASRS or section 38-651.01 or elects to participate in ~~any other~~ A health and accident insurance ~~coverage~~ PROGRAM provided or administered by an employer OR PAID FOR, IN WHOLE OR IN PART, BY AN EMPLOYER TO AN INSURER. The board shall pay:

1. Up to ~~ninety-five~~ ONE HUNDRED FIFTY dollars per month for a retired Ch. 383 or disabled member of ASRS who is not eligible for medicare and who has ten or more years of credited service.

2. Up to ~~sixty-five~~ ONE HUNDRED dollars per month for each retired or disabled member of ASRS who is eligible for medicare and who has ten or more years of credited service.

Ch. 376 B. Subject to subsection ~~F~~ J of this section, the board shall pay Ch. 136 from ASRS assets part of the family coverage premium of any ~~group~~ health and accident insurance for a retired or disabled member of ASRS who elects family coverage and who otherwise qualifies for payment pursuant to subsection A of this section. Payment under this subsection is in the following amounts:

1. Up to ~~one hundred seventy-five~~ TWO HUNDRED SIXTY dollars per month if the retired or disabled member of ASRS and one or more dependents are not Ch. 383 eligible for medicare.

2. Up to ~~one hundred fifteen~~ ONE HUNDRED SEVENTY dollars per month if the retired or disabled member of ASRS and one or more dependents are eligible for medicare.

3. Up to ~~one hundred forty-five~~ TWO HUNDRED FIFTEEN dollars per month if either:

(a) The retired or disabled member of ASRS is not eligible for medicare and one or more dependents are eligible for medicare.

(b) The retired or disabled member of ASRS is eligible for medicare and one or more dependents are not eligible for medicare.

C. In addition each retired or disabled member of ASRS with less than ten years of credited service and a dependent of such a retired or disabled member who elects to participate in the coverage provided by ASRS or section 38-651.01 or who elects to participate in ~~any other~~ A health and accident Ch. 136 ~~coverage~~ PROGRAM provided or administered by an employer OR PAID FOR, IN WHOLE OR IN PART, BY AN EMPLOYER TO AN INSURER is entitled to receive a proportion of the full benefit prescribed by subsection A or B of this section according to the following schedule:

1. 9.0 to 9.9 years of credited service, ninety per cent.
2. 8.0 to 8.9 years of credited service, eighty per cent.
3. 7.0 to 7.9 years of credited service, seventy per cent.
4. 6.0 to 6.9 years of credited service, sixty per cent.

5. 5.0 to 5.9 years of credited service, fifty per cent.

6. Those with less than five years of credited service do not qualify for the benefit.

D. The board shall not pay more than the amount prescribed in ~~subsection A or B of this section or the applicable proportion prescribed in subsection C of~~ this section for a retired or disabled member of ASRS.

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E. THROUGH JUNE 30, 2003, THE BOARD SHALL PAY AN INSURANCE PREMIUM BENEFIT FOR EACH RETIRED OR DISABLED MEMBER OF ASRS WHO IS ELIGIBLE FOR A PREMIUM BENEFIT PAYMENT PURSUANT TO SUBSECTION A OF THIS SECTION AND WHO LIVES IN A NONSERVICE AREA AS FOLLOWS:

1. UP TO THREE HUNDRED DOLLARS PER MONTH FOR A RETIRED OR DISABLED MEMBER OF ASRS WHO IS NOT ELIGIBLE FOR MEDICARE AND WHO HAS TEN OR MORE YEARS OF CREDITED SERVICE.

2. UP TO ONE HUNDRED SEVENTY DOLLARS PER MONTH FOR A RETIRED OR DISABLED MEMBER OF ASRS WHO IS ELIGIBLE FOR MEDICARE AND WHO HAS TEN OR MORE YEARS OF CREDITED SERVICE.

F. THROUGH JUNE 30, 2003, THE BOARD SHALL PAY FROM ASRS ASSETS PART OF THE FAMILY COVERAGE PREMIUM OF ANY GROUP HEALTH AND ACCIDENT INSURANCE COVERAGE FOR A RETIRED OR DISABLED MEMBER OF ASRS WHO IS ELIGIBLE FOR A PREMIUM BENEFIT PAYMENT PURSUANT TO SUBSECTION B OF THIS SECTION AND WHO LIVES IN A NONSERVICE AREA AS FOLLOWS:

1. UP TO SIX HUNDRED DOLLARS PER MONTH IF THE RETIRED OR DISABLED MEMBER OF ASRS AND ONE OR MORE DEPENDENTS ARE NOT ELIGIBLE FOR MEDICARE.

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2. UP TO THREE HUNDRED FIFTY DOLLARS PER MONTH IF THE RETIRED OR DISABLED MEMBER OF ASRS AND ONE OR MORE DEPENDENTS ARE ELIGIBLE FOR MEDICARE.

3. UP TO FOUR HUNDRED SEVENTY DOLLARS PER MONTH IF EITHER:

(a) THE RETIRED OR DISABLED MEMBER OF ASRS IS NOT ELIGIBLE FOR MEDICARE AND ONE OR MORE DEPENDENTS ARE ELIGIBLE FOR MEDICARE.

(b) THE RETIRED OR DISABLED MEMBER OF ASRS IS ELIGIBLE FOR MEDICARE AND ONE OR MORE DEPENDENTS ARE NOT ELIGIBLE FOR MEDICARE.

G. A RETIRED OR DISABLED MEMBER OF ASRS WHO IS ENROLLED IN A MANAGED CARE PROGRAM IN A NONSERVICE AREA IS NOT ELIGIBLE FOR THE PAYMENT PRESCRIBED IN SUBSECTION E OR F OF THIS SECTION IF THE MEMBER TERMINATES COVERAGE UNDER THE MANAGED CARE PROGRAM.

H. THROUGH JUNE 30, 2003, A RETIRED OR DISABLED MEMBER OF ASRS MAY ELECT TO PURCHASE INDIVIDUAL HEALTH CARE COVERAGE AND RECEIVE A PAYMENT PURSUANT TO THIS SECTION THROUGH THE RETIRED OR DISABLED MEMBER'S EMPLOYER IF THAT EMPLOYER ASSUMES THE ADMINISTRATIVE FUNCTIONS ASSOCIATED WITH THE PAYMENT, INCLUDING VERIFICATION THAT THE PAYMENT IS USED TO PAY FOR HEALTH INSURANCE COVERAGE IF THE PAYMENT IS MADE TO THE RETIRED OR DISABLED MEMBER.

~~E.~~ I. The board shall establish a separate account that consists of the benefits provided by this section. The board shall not use or divert any part of the corpus or income of the account for any purpose other than the provision of benefits under this section unless the liabilities of ASRS to provide the benefits are satisfied. If the liabilities of ASRS to provide the benefits described in this section are satisfied, the board shall return any amount remaining in the account to the employer.

~~F.~~ J. Payment of the benefits provided by this section is subject to the following conditions:

1. The payment of the benefits is subordinate to the payment of retirement benefits payable by ASRS.

2. The total of contributions for the benefits and actual contributions for life insurance protection, if any, shall not exceed twenty-five per cent of the total actual employer and employee contributions to ASRS, less contributions to fund past service credits, after the day the account is established.

3. The board shall deposit the benefits provided by this section in the account.

4. The contributions by the employer to the account shall be reasonable and ascertainable.

~~G.~~ K. For the purposes of this section:

1. "Account" means the separate account established pursuant to subsection ~~F~~ I of this section.

2. "Credited service" includes prior service.

3. "NONSERVICE AREA" MEANS AN AREA IN THIS STATE IN WHICH ASRS PURSUANT TO SECTION 38-782, THE DEPARTMENT OF ADMINISTRATION PURSUANT TO SECTION 38-651.01 OR ANY EMPLOYER DOES NOT PROVIDE OR ADMINISTER A HEALTH CARE SERVICES ORGANIZATION PROGRAM, EXCLUDING ANY PREFERRED PROVIDER ORGANIZATION PROGRAM OR INDIVIDUAL HEALTH INDEMNITY POLICY, FOR WHICH THE RETIRED OR DISABLED MEMBER OF ASRS IS ELIGIBLE.

Ch. 376

~~3.~~ 4. "Prior service" means service for this state or a political subdivision of this state before membership in the defined contribution program administered by ASRS.

EXPLANATION OF BLEND
SECTION 38-804

Laws 2001, Chapters 62, 280 and 380

Laws 2001, Ch. 62, section 1	Effective August 9 (Retroactive to August 31, 1999)
Laws 2001, Ch. 280, section 4	Effective August 9
Laws 2001, Ch. 380, section 9	Effective August 9

Explanation

Since these three enactments are not incompatible, the Laws 2001, Ch. 62, Ch. 280 and Ch. 380 text changes to section 38-804 are blended in the form shown on the following pages.

BLEND OF SECTION 38-804
Laws 2001, Chapters 62, 280 and 380

38-804. Membership; termination; reinstatement of credited service

A. All elected officials are members of the plan, except that a state elected official who is subject to term limits may elect not to participate in the plan. The state elected official who is subject to term limits shall make the election in writing and file the election with the fund manager within thirty days after the state elected official assumes office. The election is effective on the first day of the state elected official's eligibility for that term of office. The election not to participate is specific for that term of office. If a state elected official who is subject to term limits fails to make an election as provided in this subsection, the state elected official is deemed to have elected to participate in the plan. The election not to participate in the plan is irrevocable and constitutes a waiver of all benefits provided by the plan for the state elected official's entire term, except for any benefits accrued by the state elected official in the plan for periods of participation prior to being elected to an office subject to term limits or any benefits expressly provided by law. The state elected official who elects not to participate in the plan shall participate in the Arizona state retirement system unless the state elected official makes an irrevocable election not to participate in the Arizona state retirement system as provided in section 38-727. ~~If the state elected official elects not to participate in the plan, the Arizona state retirement system or the defined contribution retirement plan option pursuant to article 8 of this chapter, the state elected official may participate in a tax deferred annuity and deferred compensation program established pursuant to article 5 of this chapter. If the state elected official chooses to participate in such a program, the state elected official's employer shall pay an amount equal to five per cent of the state elected official's base salary directly to the program in lieu of employer contributions to a public retirement system.~~

Chs. 280 and 380

B. If a member ceases to hold office for any reason other than death or retirement, within twenty days after filing a completed application with the fund manager, the member is entitled to receive the following amounts, less any benefit payments the member has received and any amount the member may owe to the plan:

1. If the member has less than five years of credited service with the plan, the member may withdraw the member's accumulated contributions from the plan.

2. If the member has five or more years of credited service with the plan, the member may withdraw the member's accumulated contributions plus an amount equal to the amount determined as follows:

(a) 5.0 to 5.9 years of credited service, twenty-five per cent of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A.

(b) 6.0 to 6.9 years of credited service, forty per cent of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A.

(c) 7.0 to 7.9 years of credited service, fifty-five per cent of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A.

(d) 8.0 to 8.9 years of credited service, seventy per cent of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A.

(e) 9.0 to 9.9 years of credited service, eighty-five per cent of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A.

(f) 10.0 or more years of credited service, one hundred per cent of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A.

C. If a member has more than ten years of credited service with the plan, leaves the monies prescribed in subsection B of this section on account with the plan for more than thirty days after termination of employment and after that time period requests a refund of those monies, the member is entitled to receive the amount prescribed in subsection B of this section plus interest at a rate determined by the fund manager for each year computed from and after the member's termination of employment.

D. If the amount prescribed in subsection B or C of this section includes monies that are an eligible rollover distribution and the member elects to have the distribution paid directly to an eligible retirement plan or individual retirement account or annuity and specifies the eligible retirement plan or individual retirement account or annuity to which the distribution is to be paid, the distribution shall be made in the form of a direct trustee-to-trustee transfer to the specified eligible retirement plan. The distribution shall be made in the form and at the time prescribed by the fund manager. A member who receives the amount prescribed in subsection B or C of this section from the plan or who elects a transfer pursuant to this subsection forfeits the member's credited service, and all rights to benefits under the plan and membership in the plan terminate.

E. If an elected official who has terminated the member's membership in the plan pursuant to subsection B of this section is subsequently elected or otherwise becomes eligible for membership in the plan pursuant to subsection A of this section, credited service only accrues from the date of the member's most recent eligibility as an elected official.

F. Notwithstanding subsection E of this section, if an elected official files a written election form with the fund manager within ninety days after the day of the member's reemployment as an elected official and repays the amount previously withdrawn pursuant to subsection B or C of this section within one year after the date of the member's reemployment as an elected official, with interest on that amount at the rate of nine per cent for each year, compounded each year from the date of withdrawal to the date of repayment, credited service shall be restored. Credited service shall not be restored until complete repayment is made to the fund.

G. If a retired member subsequently becomes an elected official, contributions shall not be made by the retired member or the retired member's employer and credited service shall not accrue while the retired member is holding office, except that if a retired member subsequently becomes, BY REASON OF ELECTION OR REELECTION, an elected official of the same office from which the member retired, the member shall not receive a pension, contributions shall not be made by the member or the member's employer and credited service shall not accrue while the member is holding office. If the elected official ceases to hold the same office, the elected official is entitled to receive the same pension the elected official was receiving when the elected official's pension was discontinued pursuant to this subsection. Nothing in this subsection prohibits a retired judge called by the supreme court to active duties of a judge pursuant to section 38-813 from receiving retirement benefits.

Ch. 62

EXPLANATION OF BLEND
SECTION 38-815

Laws 2001, Chapters 280 and 380

Laws 2001, Ch. 280, section 5	Effective August 9
Laws 2001, Ch. 380, section 10	Effective August 9

Explanation

Since these two enactments are identical, the Laws 2001, Ch. 280 and Ch. 380 text changes to section 38-815 are blended in the form shown on the following page.

BLEND OF SECTION 38-815
Laws 2001, Chapters 280 and 380

38-815. Joinder agreement

A. Elected officials of an incorporated city or town may participate in the plan if the governing body of the city or town enters into a joinder agreement with the fund manager on behalf of its elected officials and the employer unconditionally accepts the provisions of the plan and binds its elected officials thereto. All elected officials shall be designated for membership unless written consent to the contrary is obtained from the fund manager. A member shall be qualified for participation in order to obtain written consent to the contrary from the fund manager.

B. The effective date of participation shall be specifically stipulated in the joinder agreement.

C. Any city or town which is considering participation in the plan shall request a preliminary actuarial survey to determine the estimated cost of participation, the benefits to be derived and such other information as may be deemed appropriate. The cost of such survey shall be paid by the city or town requesting it.

Chs. 280 and 380

~~D. As a condition of a city's or town's participation in the plan, the employer, before the effective date of the participation, shall formally terminate any existing retirement program on behalf of the elected officials included in the plan and shall formally agree that no retirement program, exclusive of the plan and the federal social security system, shall thereafter be established on behalf of the elected officials.~~

~~E.~~ D. All assets under any existing public employee defined benefit retirement program, to the extent attributable to the city's or town's elected officials, shall be transferred from the program to this fund no later than sixty days after the city's or town's effective date of participation. That portion of the transferred assets which is attributable to the elected official's contributions, including interest credits thereon, shall be properly allocated to each affected elected official of the city or town and credited to the elected official's accumulated contributions, in accordance with a schedule furnished by the city or town to the fund manager.

EXPLANATION OF BLEND
SECTION 38-817

Laws 2001, Chapters 376 and 383

Laws 2001, Ch. 376, section 2 — Effective August 9 (Retroactive to July 1, 2001)

Laws 2001, Ch. 383, section 2 — Effective August 9 (Retroactive to July 1, 2001)

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 376 and Ch. 383 text changes to section 38-817 are blended in the form shown on the following pages.

BLEND OF SECTION 38-817
Laws 2001, Chapters 376 and 383

38-817. Group health and accident coverage for retired members; payment; definition

A. The fund manager shall pay from the assets of the fund part of the single coverage premium of any group health and accident insurance ~~in the amount of up to sixty dollars per month~~ for [~~a~~ EACH] retired member or survivor of the elected officials' retirement plan who receives a pension if the ~~retiree~~ RETIRED MEMBER had eight or more years of credited service under the plan. In order to qualify for payment pursuant to this subsection, the retired member or survivor shall elect single coverage and ~~shall elect~~ MUST HAVE ELECTED to participate in the coverage provided in section 38-651.01 or 38-782 or ~~elect to participate in~~ any other health and accident insurance COVERAGE provided or administered by a participating employer of the elected officials' retirement plan. THE FUND MANAGER SHALL PAY UP TO:

1. ONE HUNDRED FIFTY DOLLARS PER MONTH FOR EACH RETIRED MEMBER OR SURVIVOR OF THE PLAN WHO IS NOT ELIGIBLE FOR MEDICARE.

2. ONE HUNDRED DOLLARS PER MONTH FOR EACH RETIRED MEMBER OR SURVIVOR OF THE PLAN WHO IS ELIGIBLE FOR MEDICARE.

B. The fund manager shall pay from the assets of the fund part of the family coverage premium of any group health and accident insurance ~~in the amount of up to eighty-five dollars~~ each month for a benefit recipient who elects family coverage and who otherwise qualifies for payment pursuant to subsection A of this section. THE FUND MANAGER SHALL PAY UP TO:

1. TWO HUNDRED SIXTY DOLLARS PER MONTH IF THE RETIRED MEMBER OR SURVIVOR OF THE PLAN AND ONE OR MORE DEPENDENTS ARE NOT ELIGIBLE FOR MEDICARE.

2. ONE HUNDRED SEVENTY DOLLARS PER MONTH IF THE RETIRED MEMBER OR SURVIVOR OF THE PLAN AND ONE OR MORE DEPENDENTS ARE ELIGIBLE FOR MEDICARE.

3. TWO HUNDRED FIFTEEN DOLLARS PER MONTH IF EITHER:

(a) THE RETIRED MEMBER OR SURVIVOR OF THE PLAN IS NOT ELIGIBLE FOR MEDICARE AND ONE OR MORE DEPENDENTS ARE ELIGIBLE FOR MEDICARE.

(b) THE RETIRED MEMBER OR SURVIVOR OF THE PLAN IS ELIGIBLE FOR MEDICARE AND ONE OR MORE DEPENDENTS ARE NOT ELIGIBLE FOR MEDICARE.

C. Each retired member or survivor of the plan with less than eight years of credited service and a dependent of such a retired member or survivor who participates in the coverage provided by section 38-651.01 or 38-782 or who participates in any other health and accident insurance coverage provided or administered by a participating employer of the plan is entitled to receive a proportion of the full benefit prescribed by subsection A or B of this section according to the following schedule:

1. 7.0 to 7.9 years of credited service, ninety per cent.
2. 6.0 to 6.9 years of credited service, seventy-five per cent.
3. 5.0 to 5.9 years of credited service, sixty per cent.
4. Those with less than five years of credited service do not qualify for the benefit.

Chs. 376 and 383

D. The fund manager shall not pay more than ~~eighty-five dollars each month or the applicable proportion prescribed in subsection C of~~ THE AMOUNT PRESCRIBED IN this section for a benefit recipient as a member or survivor of the plan.

E. THROUGH JUNE 30, 2003, THE FUND MANAGER SHALL PAY AN INSURANCE PREMIUM BENEFIT FOR EACH RETIRED MEMBER OR SURVIVOR OF THE PLAN WHO IS ENTITLED TO A PREMIUM BENEFIT PAYMENT PURSUANT TO SUBSECTION A OF THIS SECTION AND WHO LIVES IN A NONSERVICE AREA AS FOLLOWS:

1. UP TO THREE HUNDRED DOLLARS PER MONTH FOR A RETIRED MEMBER OR SURVIVOR OF THE PLAN WHO IS NOT ELIGIBLE FOR MEDICARE AND WHO HAS EIGHT OR MORE YEARS OF CREDITED SERVICE.

2. UP TO ONE HUNDRED SEVENTY DOLLARS PER MONTH FOR A RETIRED MEMBER OR SURVIVOR OF THE PLAN WHO IS ELIGIBLE FOR MEDICARE AND WHO HAS EIGHT OR MORE YEARS OF CREDITED SERVICE.

F. THROUGH JUNE 30, 2003, THE FUND MANAGER SHALL PAY AN INSURANCE PREMIUM BENEFIT FOR A RETIRED MEMBER OR SURVIVOR OF THE PLAN WHO IS ENTITLED TO A PREMIUM BENEFIT PAYMENT PURSUANT TO SUBSECTION B OF THIS SECTION AND WHO LIVES IN A NONSERVICE AREA AS FOLLOWS:

1. UP TO SIX HUNDRED DOLLARS PER MONTH IF THE RETIRED MEMBER OR SURVIVOR OF THE PLAN AND ONE OR MORE DEPENDENTS ARE NOT ELIGIBLE FOR MEDICARE.

2. UP TO THREE HUNDRED FIFTY DOLLARS PER MONTH IF THE RETIRED MEMBER OR SURVIVOR OF THE PLAN AND ONE OR MORE DEPENDENTS ARE ELIGIBLE FOR MEDICARE.

3. UP TO FOUR HUNDRED SEVENTY DOLLARS PER MONTH IF EITHER:

Ch. 376

(a) THE RETIRED MEMBER OR SURVIVOR OF THE PLAN IS NOT ELIGIBLE FOR MEDICARE AND ONE OR MORE DEPENDENTS ARE ELIGIBLE FOR MEDICARE.

(b) THE RETIRED MEMBER OR SURVIVOR OF THE PLAN IS ELIGIBLE FOR MEDICARE AND ONE OR MORE DEPENDENTS ARE NOT ELIGIBLE FOR MEDICARE.

G. A RETIRED MEMBER OR SURVIVOR OF THE PLAN WHO IS ENROLLED IN A MANAGED CARE PROGRAM IN A NONSERVICE AREA IS NOT ELIGIBLE FOR THE PAYMENT PRESCRIBED IN SUBSECTION E OR F OF THIS SECTION IF THE MEMBER TERMINATES COVERAGE UNDER THE MANAGED CARE PROGRAM.

H. THROUGH JUNE 30, 2003, A RETIRED MEMBER OR SURVIVOR OF THE PLAN MAY ELECT TO PURCHASE INDIVIDUAL HEALTH CARE COVERAGE AND RECEIVE A PAYMENT PURSUANT TO THIS SECTION THROUGH THE RETIRED MEMBER'S EMPLOYER IF THAT EMPLOYER ASSUMES THE ADMINISTRATIVE FUNCTIONS ASSOCIATED WITH THE PAYMENT, INCLUDING VERIFICATION THAT THE PAYMENT IS USED TO PAY FOR HEALTH INSURANCE COVERAGE IF THE PAYMENT IS MADE TO THE RETIRED MEMBER OR SURVIVOR OF THE PLAN.

I. FOR THE PURPOSES OF THIS SECTION, "NONSERVICE AREA" MEANS AN AREA IN THIS STATE IN WHICH THE ARIZONA STATE RETIREMENT SYSTEM PURSUANT TO SECTION 38-782, THE DEPARTMENT OF ADMINISTRATION PURSUANT TO SECTION 38-651.01 OR THE MEMBER'S OR SURVIVOR'S PARTICIPATING EMPLOYER DOES NOT PROVIDE OR ADMINISTER A HEALTH CARE SERVICES ORGANIZATION PROGRAM, EXCLUDING ANY PREFERRED PROVIDER ORGANIZATION PROGRAM OR INDIVIDUAL HEALTH INDEMNITY POLICY, FOR WHICH THE RETIRED MEMBER OR SURVIVOR OF THE PLAN IS ELIGIBLE.

EXPLANATION OF BLEND
SECTION 38-844.03

Laws 2001, Chapters 59 and 349

Laws 2001, Ch. 59, section 1 — Effective August 9

Laws 2001, Ch. 349, section 1 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 59 and Ch. 349 text changes to section 38-844.03 are blended in the form shown on the following page.

BLEND OF SECTION 38-844.03
Laws 2001, Chapters 59 and 349

38-844.03. Eligibility; participation

A. Any member who is eligible for a normal pension pursuant to section 38-844, subsection A and who has at least ~~twenty-five~~ TWENTY years of credited service is eligible to participate in the deferred retirement option plan. Ch. 349

B. A member who elects to participate in the deferred retirement option plan shall voluntarily and irrevocably:

1. Designate a period of participation that is not more than sixty consecutive months.

2. Beginning on the ~~first day of the member's participation~~ DATE THE MEMBER ELECTS TO PARTICIPATE in the deferred retirement option plan, cease to accrue benefits under any other provision of this article. THE MEMBER'S EFFECTIVE DATE OF PARTICIPATION IS THE FIRST DAY OF THE MONTH FOLLOWING THE DATE THE MEMBER ELECTS TO PARTICIPATE. Ch. 59

3. Have deferred retirement option plan benefits credited to a deferred retirement option plan participation account pursuant to section 38-844.05.

4. Receive benefits from the system on termination of employment at the same time and in the same manner as otherwise prescribed in this article.

5. Agree to terminate employment on completion of the deferred retirement option plan participation period designated by the member on the appropriate deferred retirement option plan participation form.

C. If a member fails to terminate employment on completion of the designated deferred retirement option plan participation period: ~~,~~

1. The member is not entitled to the interest accumulation on the deferred retirement option plan participation account.

2. THE DEFERRED RETIREMENT OPTION PLAN PARTICIPATION ACCOUNT SHALL NOT BE CREDITED WITH THE MONTHLY AMOUNT PRESCRIBED IN SECTION 38-844.05, SUBSECTION C, PARAGRAPH 1 AND THAT AMOUNT SHALL NOT BE PAID DIRECTLY TO THE MEMBER. Ch. 59

3. THE PAYMENT PRESCRIBED IN SECTION 38-844.08, SUBSECTION A, PARAGRAPH 1 SHALL NOT BE PAID UNTIL THE MEMBER TERMINATES EMPLOYMENT AND IS PAYABLE AT THE SAME TIME AS THE PENSION AMOUNT IS PAID ON RETIREMENT.

4. THE MEMBER DOES NOT ACQUIRE ANY FURTHER CREDITED SERVICE IN THE SYSTEM.

EXPLANATION OF BLEND
SECTION 38-851

Laws 2001, Chapters 280 and 380

Laws 2001, Ch. 280, section 6 — Effective August 9

Laws 2001, Ch. 380, section 11 — Effective August 9

Explanation

Since the Ch. 380 version includes all of the changes made by the Ch. 280 version, the Laws 2001, Ch. 380 amendment of section 38-851 is the blend of both the Laws 2001, Ch. 280 and Ch. 380 versions.

BLEND OF SECTION 38-851
Laws 2001, Chapters 280 and 380

38-851. Participation of new employers

Ch. 380 — A. This state, any municipality, county, or other political subdivision of the state, any Indian tribe or any public or quasi-public organization created wholly or partly by, or deriving its powers from, the legislature, may request to become a participating employer in the system on behalf of a designated eligible employee group. Such a request shall be made by the state departmental director or after a proper resolution has been adopted by the governing body of the political subdivision, Indian tribe or public organization, and after such resolution has been approved by any other party or officer required by law to approve the resolution. A certified copy of such resolution shall be filed with the fund manager. This state or the political subdivision, Indian tribe or public organization shall be considered as a participating employer upon proper execution of a joinder agreement in which the employer unconditionally accepts the provisions of the system and binds the employer's designated eligible employees to those provisions. All members of an eligible group shall be designated for membership, unless written consent to the contrary is obtained from the fund manager. A member shall be qualified for participation in order to obtain written consent to the contrary from the fund manager.

B. The effective date of participation in the system by this state or a political subdivision, Indian tribe or public organization shall be the July 1, next succeeding the approval of its participation, unless the fund manager consents to another date, as shall be specifically stipulated in the
Ch. 380 — joinder agreement.

C. The new employer shall designate the departments, groups or other classifications of public safety employees which shall be eligible to participate in the system, and shall agree to make contributions each year which shall be sufficient to meet both the normal cost on a level cost method attributable to inclusion of its employees and the prescribed interest on the past service cost for its employees.

D. This state or any political subdivision, Indian tribe or public organization which is contemplating participation in the system shall request a preliminary actuarial survey to determine the estimated cost of
Ch. 380 — participation, the benefits to be derived, and such other information as may be deemed appropriate. The cost of such a survey shall be paid by this state or the political subdivision, Indian tribe or public organization requesting it.

Chs. 280 and 380 — ~~E. As a condition of an employer's participation in the system, the employer shall, prior to the effective date of such participation, formally terminate any existent retirement program, except a military retirement program, on behalf of the designated eligible employee group included in the system and shall formally agree that no retirement program, exclusive of a military retirement program, the system and the federal social security system, shall thereafter be established on behalf of such group.~~

~~F.~~ E. As a condition to participation in the system an Indian tribe employer, by resolution of the governing body, shall:

1. Agree that all disputes involving interpretation of state statutes involving the system, and any amendments to such statutes, will be resolved through the court system of this state.

2. Agree to be bound by state statutes and laws which regulate and interpret the provisions of the system, including eligibility to membership in the system, service credits and the rights of any claimant to benefits and the amount of such benefits.

3. Agree to meet any requirement which the fund manager may prescribe to ensure timely payment of member and employer contributions and any other amounts due from the employer to the system.

4. Include in the joinder agreement any other provision deemed necessary by the fund manager for the administration or enforcement of the agreement.

~~G.~~ F. Assets under any existing public employee defined benefit retirement program, except a military retirement program, necessary to equal the actuarial present value of projected benefits attributable to the employer's designated employee group, calculated using the actuarial methods and assumptions adopted by the existing public employee retirement program, shall be transferred from such program to this fund no later than sixty days after the employer's effective date. That portion of the transferred assets which is attributable to employee contributions, including interest credits thereon, shall be properly allocated to each affected employee of the employer and credited to the employee's initial accumulated contributions, in accordance with a schedule furnished by the employer to the fund manager.

EXPLANATION OF BLEND
SECTION 38-857

Laws 2001, Chapters 376 and 383

Laws 2001, Ch. 376, section 3	Effective August 9 (Retroactive to July 1, 2001)
Laws 2001, Ch. 383, section 3	Effective August 9 (Retroactive to July 1, 2001)

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 376 and Ch. 383 text changes to section 38-857 are blended in the form shown on the following pages.

BLEND OF SECTION 38-857
Laws 2001, Chapters 376 and 383

38-857. Group health and accident coverage for retired members; payment; definition

A. The fund manager of the public safety personnel retirement system shall pay part of the single coverage premium of any group health and accident insurance ~~in the amount of up to eighty-two dollars fifty cents per month~~ for [~~a~~ EACH] retired member or survivor of the system who receives a pension and [WHO] has elected to participate in the coverage provided by section 38-651.01 or 38-782 or [~~who participates in~~] any other health and accident insurance [COVERAGE] provided or administered by a participating employer of the system. THE FUND MANAGER SHALL PAY UP TO: Chs. 376 and 383

1. ONE HUNDRED FIFTY DOLLARS PER MONTH FOR EACH RETIRED MEMBER OR SURVIVOR OF THE SYSTEM WHO IS NOT ELIGIBLE FOR MEDICARE.

2. ONE HUNDRED DOLLARS PER MONTH FOR EACH RETIRED MEMBER OR SURVIVOR OF THE SYSTEM WHO IS ELIGIBLE FOR MEDICARE.

B. The fund manager of the system shall pay from assets of the fund part of the family coverage premium of any group health and accident insurance ~~in an amount of up to one hundred thirty dollars~~ each month for a benefit recipient who elects family coverage and otherwise qualifies for payment pursuant to subsection A of this section. THE FUND MANAGER SHALL PAY UP TO: Ch. 383

1. TWO HUNDRED SIXTY DOLLARS PER MONTH IF THE RETIRED MEMBER OR SURVIVOR OF THE SYSTEM AND ONE OR MORE DEPENDENTS ARE NOT ELIGIBLE FOR MEDICARE.

2. ONE HUNDRED SEVENTY DOLLARS PER MONTH IF THE RETIRED MEMBER OR SURVIVOR OF THE SYSTEM AND ONE OR MORE DEPENDENTS ARE ELIGIBLE FOR MEDICARE.

3. TWO HUNDRED FIFTEEN DOLLARS PER MONTH IF EITHER:

(a) THE RETIRED MEMBER OR SURVIVOR OF THE SYSTEM IS NOT ELIGIBLE FOR MEDICARE AND ONE OR MORE DEPENDENTS ARE ELIGIBLE FOR MEDICARE.

(b) THE RETIRED MEMBER OR SURVIVOR OF THE SYSTEM IS ELIGIBLE FOR MEDICARE AND ONE OR MORE DEPENDENTS ARE NOT ELIGIBLE FOR MEDICARE.

C. The fund manager shall not pay from assets of the fund more than ~~one hundred thirty dollars each month pursuant to~~ THE AMOUNT PRESCRIBED IN this section for a benefit recipient as a member or survivor of the system. Chs. 376 and 383

D. This section does not apply to a retired member or survivor of the system who is reemployed by this state or a political subdivision of this state and who participates in coverage provided by this state or a political subdivision of this state as an active employee.

E. THROUGH JUNE 30, 2003, THE FUND MANAGER SHALL PAY AN INSURANCE PREMIUM BENEFIT FOR EACH RETIRED MEMBER OR SURVIVOR OF THE SYSTEM WHO IS ENTITLED TO A PREMIUM BENEFIT PAYMENT PURSUANT TO SUBSECTION A OF THIS SECTION AND WHO LIVES IN A NONSERVICE AREA AS FOLLOWS: Ch. 376

1. UP TO THREE HUNDRED DOLLARS PER MONTH FOR A RETIRED MEMBER OR SURVIVOR OF THE SYSTEM WHO IS NOT ELIGIBLE FOR MEDICARE.

2. UP TO ONE HUNDRED SEVENTY DOLLARS PER MONTH FOR A RETIRED MEMBER OR SURVIVOR OF THE SYSTEM WHO IS ELIGIBLE FOR MEDICARE.

F. THROUGH JUNE 30, 2003, THE FUND MANAGER SHALL PAY AN INSURANCE PREMIUM BENEFIT FOR A RETIRED MEMBER OR SURVIVOR OF THE SYSTEM WHO IS ENTITLED TO A PREMIUM BENEFIT PAYMENT PURSUANT TO SUBSECTION B OF THIS SECTION AND WHO LIVES IN A NONSERVICE AREA AS FOLLOWS:

1. UP TO SIX HUNDRED DOLLARS PER MONTH IF THE RETIRED MEMBER OR SURVIVOR OF THE SYSTEM AND ONE OR MORE DEPENDENTS ARE NOT ELIGIBLE FOR MEDICARE.

2. UP TO THREE HUNDRED FIFTY DOLLARS PER MONTH IF THE RETIRED MEMBER OR SURVIVOR OF THE SYSTEM AND ONE OR MORE DEPENDENTS ARE ELIGIBLE FOR MEDICARE.

3. UP TO FOUR HUNDRED SEVENTY DOLLARS PER MONTH IF EITHER:

(a) THE RETIRED MEMBER OR SURVIVOR OF THE SYSTEM IS NOT ELIGIBLE FOR MEDICARE AND ONE OR MORE DEPENDENTS ARE ELIGIBLE FOR MEDICARE.

(b) THE RETIRED MEMBER OR SURVIVOR OF THE SYSTEM IS ELIGIBLE FOR MEDICARE AND ONE OR MORE DEPENDENTS ARE NOT ELIGIBLE FOR MEDICARE.

Ch. 376

G. A RETIRED MEMBER OR SURVIVOR OF THE SYSTEM WHO IS ENROLLED IN A MANAGED CARE PROGRAM IN A NONSERVICE AREA IS NOT ELIGIBLE FOR THE PAYMENT PRESCRIBED IN SUBSECTION E OR F OF THIS SECTION IF THE MEMBER TERMINATES COVERAGE UNDER THE MANAGED CARE PROGRAM.

H. THROUGH JUNE 30, 2003, A RETIRED MEMBER OR SURVIVOR OF THE SYSTEM MAY ELECT TO PURCHASE INDIVIDUAL HEALTH CARE COVERAGE AND RECEIVE A PAYMENT PURSUANT TO THIS SECTION THROUGH THE RETIRED MEMBER'S EMPLOYER IF THAT EMPLOYER ASSUMES THE ADMINISTRATIVE FUNCTIONS ASSOCIATED WITH THE PAYMENT, INCLUDING VERIFICATION THAT THE PAYMENT IS USED TO PAY FOR HEALTH INSURANCE COVERAGE IF THE PAYMENT IS MADE TO THE RETIRED MEMBER OR SURVIVOR OF THE SYSTEM.

I. FOR THE PURPOSES OF THIS SECTION, "NONSERVICE AREA" MEANS AN AREA IN THIS STATE IN WHICH THE ARIZONA STATE RETIREMENT SYSTEM PURSUANT TO SECTION 38-782, THE DEPARTMENT OF ADMINISTRATION PURSUANT TO SECTION 38-651.01 OR THE MEMBER'S OR SURVIVOR'S PARTICIPATING EMPLOYER DOES NOT PROVIDE OR ADMINISTER A HEALTH CARE SERVICES ORGANIZATION PROGRAM, EXCLUDING ANY PREFERRED PROVIDER ORGANIZATION PROGRAM OR INDIVIDUAL HEALTH INDEMNITY POLICY, FOR WHICH THE RETIRED MEMBER OR SURVIVOR OF THE SYSTEM IS ELIGIBLE.

EXPLANATION OF BLEND
SECTION 38-902

Laws 2001, Chapters 280, 309 and 380

Laws 2001, Ch. 280, section 7	Effective August 9
Laws 2001, Ch. 309, section 4	Effective August 9
Laws 2001, Ch. 380, section 13	Effective August 9

Explanation

Since these three enactments are not incompatible, the Laws 2001, Ch. 280, Ch. 309 and Ch. 380 text changes to section 38-902 are blended in the form shown on the following page.

BLEND OF SECTION 38-902
Laws 2001, Chapters 280, 309 and 380

38-902. Joinder agreement

A. County detention officers and nonuniformed employees of a sheriff's department whose primary duties require direct contact with inmates may participate in this plan if the board of supervisors of the county enters into a joinder agreement with the fund manager to bring such employees into this plan. The joinder agreement shall be in accordance with the provisions of this plan. All such employees shall be designated for membership in the joinder agreement unless written consent to the contrary is obtained from the fund manager.

B. City or town detention officers may participate in this plan if the governing body of the city or town enters into a joinder agreement with the fund manager to bring its detention officers into this plan. The joinder agreement shall be in accordance with the provisions of the plan. The governing body of the city or town shall designate all detention officers for membership in the plan unless written consent to the contrary is obtained from the fund manager.

Ch. 309

C. FULL-TIME DISPATCHERS MAY PARTICIPATE IN THIS PLAN IF THE GOVERNING BODY OR AGENCY OF THE EMPLOYER OF AN ELIGIBLE GROUP AS DEFINED IN SECTION 38-842 ENTERS INTO A JOINDER AGREEMENT WITH THE FUND MANAGER TO BRING ITS FULL-TIME DISPATCHERS INTO THIS PLAN. THE JOINDER AGREEMENT SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF THIS PLAN. THE GOVERNING BODY OR AGENCY OF THE EMPLOYER SHALL DESIGNATE ALL FULL-TIME DISPATCHERS FOR MEMBERSHIP IN THE PLAN UNLESS WRITTEN CONSENT TO THE CONTRARY IS OBTAINED FROM THE FUND MANAGER.

~~C.~~ D. The new employer shall designate the groups of employees who are eligible to participate in the plan and shall agree to make contributions each year that are sufficient to meet both the normal cost of a level cost method attributable to inclusion of its employees and the prescribed interest on the past service cost for its employees.

Chs. 280 and 380

~~D. As a condition of an employer's participation in this plan, the employer, before the effective date of the participation, shall formally terminate any existing retirement program on behalf of the designated eligible employee group.~~

Ch. 309

~~D.~~ E. Before the execution of any joinder agreement each ~~county~~ EMPLOYER contemplating participation in the plan shall have an actuarial valuation made, which is payable by the ~~county~~ EMPLOYER, to determine the estimated cost of participation in accordance with section 38-894.

F. Assets under any existing public employee defined benefit retirement program, except a military retirement program, that are necessary to equal the actuarial present value of projected benefits attributable to the employer's designated employee group, calculated using the actuarial methods and assumptions adopted by the existing public employee retirement program, shall be transferred from the program to this fund no later than sixty days after the employer's effective date. That portion of the transferred assets that is attributable to employee contributions, including interest credits, shall be properly allocated to each affected employee of the employer and credited to the employee's initial accumulated contributions in accordance with a schedule furnished by the employer to the fund manager.

EXPLANATION OF BLEND
SECTION 38-906

Laws 2001, Chapters 376 and 383

Laws 2001, Ch. 376, section 4	Effective August 9 (Retroactive to July 1, 2001)
Laws 2001, Ch. 383, section 4	Effective August 9 (Retroactive to July 1, 2001)

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 376 and Ch. 383 text changes to section 38-906 are blended in the form shown on the following pages.

BLEND OF SECTION 38-906
Laws 2001, Chapters 376 and 383

38-906. Group health and accident coverage for retired members; payment; definition

A. The fund manager shall pay from the assets of the fund part of the single coverage premium of any group health and accident insurance ~~in the amount of up to ninety-five dollars per month~~ for each retired member or survivor of the plan who ~~is receiving benefits, who is not eligible for medicare and who elects single coverage and up to sixty-five dollars per month for each retired member or survivor of the plan who is receiving benefits, who is eligible for medicare and who elects single coverage. In order to qualify for the benefits provided in this section, the retired member or survivor must~~ RECEIVES A PENSION AND WHO HAS ELECTED TO participate in coverage provided by section 38-651.01 or 38-782 or ~~participate in~~ any other health and accident insurance coverage provided or administered by a participating employer in the plan. THE FUND MANAGER SHALL PAY UP TO: (Ch. 383)

1. ONE HUNDRED FIFTY DOLLARS PER MONTH FOR EACH RETIRED MEMBER OR SURVIVOR OF THE PLAN WHO IS NOT ELIGIBLE FOR MEDICARE.

2. ONE HUNDRED DOLLARS PER MONTH FOR EACH RETIRED MEMBER OR SURVIVOR OF THE PLAN WHO IS ELIGIBLE FOR MEDICARE.

B. The fund manager shall pay from the assets of the fund part of the family coverage premium of any group health and accident insurance for each retired member or survivor of the plan who elects family coverage and who otherwise qualifies for payment pursuant to subsection A of this section. Payment under this subsection is in the following amounts:

1. Up to ~~one hundred seventy-five~~ TWO HUNDRED SIXTY dollars [~~each~~ PER] month if the retired member or survivor [OF THE PLAN and ~~dependent~~ ONE OR MORE DEPENDENTS] are not eligible for medicare. (Chs. 376 and 383)

2. Up to ~~one hundred fifteen~~ ONE HUNDRED SEVENTY dollars [~~each~~ PER] month if the retired member or survivor [OF THE PLAN and ~~dependent~~ ONE OR MORE DEPENDENTS are ~~both~~] eligible for medicare. (Ch. 383)

3. Up to ~~one hundred forty-five~~ TWO HUNDRED FIFTEEN dollars if either:

(a) The retired member or survivor OF THE PLAN is not eligible for medicare and ~~the dependent is~~ ONE OR MORE DEPENDENTS ARE eligible for medicare.

(b) The retired member or survivor OF THE PLAN is eligible for medicare and ~~the dependent is~~ ONE OR MORE DEPENDENTS ARE not eligible for medicare. (Chs. 376 and 383)

C. The fund manager shall not pay more than the amount prescribed in ~~subsection A or B of~~ this section for a benefit recipient as a member or survivor of the plan.

D. THROUGH JUNE 30, 2003, THE FUND MANAGER SHALL PAY AN INSURANCE PREMIUM BENEFIT FOR EACH RETIRED MEMBER OR SURVIVOR OF THE PLAN WHO IS ENTITLED TO A PREMIUM BENEFIT PAYMENT PURSUANT TO SUBSECTION A OF THIS SECTION AND WHO LIVES IN A NONSERVICE AREA AS FOLLOWS: (Ch. 376)

1. UP TO THREE HUNDRED DOLLARS PER MONTH FOR A RETIRED MEMBER OR SURVIVOR OF THE PLAN WHO IS NOT ELIGIBLE FOR MEDICARE.

2. UP TO ONE HUNDRED SEVENTY DOLLARS PER MONTH FOR A RETIRED MEMBER OR SURVIVOR OF THE PLAN WHO IS ELIGIBLE FOR MEDICARE.

E. THROUGH JUNE 30, 2003, THE FUND MANAGER SHALL PAY AN INSURANCE PREMIUM BENEFIT FOR A RETIRED MEMBER OR SURVIVOR OF THE PLAN WHO IS ENTITLED TO A PREMIUM BENEFIT PAYMENT PURSUANT TO SUBSECTION B OF THIS SECTION AND WHO LIVES IN A NONSERVICE AREA AS FOLLOWS:

1. UP TO SIX HUNDRED DOLLARS PER MONTH IF THE RETIRED MEMBER OR SURVIVOR OF THE PLAN AND ONE OR MORE DEPENDENTS ARE NOT ELIGIBLE FOR MEDICARE.

2. UP TO THREE HUNDRED FIFTY DOLLARS PER MONTH IF THE RETIRED MEMBER OR SURVIVOR OF THE PLAN AND ONE OR MORE DEPENDENTS ARE ELIGIBLE FOR MEDICARE.

3. UP TO FOUR HUNDRED SEVENTY DOLLARS PER MONTH IF EITHER:

(a) THE RETIRED MEMBER OR SURVIVOR OF THE PLAN IS NOT ELIGIBLE FOR MEDICARE AND ONE OR MORE DEPENDENTS ARE ELIGIBLE FOR MEDICARE.

(b) THE RETIRED MEMBER OR SURVIVOR OF THE PLAN IS ELIGIBLE FOR MEDICARE AND ONE OR MORE DEPENDENTS ARE NOT ELIGIBLE FOR MEDICARE.

Ch. 376

F. A RETIRED MEMBER OR SURVIVOR OF THE PLAN WHO IS ENROLLED IN A MANAGED CARE PROGRAM IN A NONSERVICE AREA IS NOT ELIGIBLE FOR THE PAYMENT PRESCRIBED IN SUBSECTION D OR E OF THIS SECTION IF THE MEMBER TERMINATES COVERAGE UNDER THE MANAGED CARE PROGRAM.

G. THROUGH JUNE 30, 2003, A RETIRED MEMBER OR SURVIVOR OF THE PLAN MAY ELECT TO PURCHASE INDIVIDUAL HEALTH CARE COVERAGE AND RECEIVE A PAYMENT PURSUANT TO THIS SECTION THROUGH THE RETIRED MEMBER'S EMPLOYER IF THAT EMPLOYER ASSUMES THE ADMINISTRATIVE FUNCTIONS ASSOCIATED WITH THE PAYMENT, INCLUDING VERIFICATION THAT THE PAYMENT IS USED TO PAY FOR HEALTH INSURANCE COVERAGE IF THE PAYMENT IS MADE TO THE RETIRED MEMBER OR SURVIVOR OF THE PLAN.

H. FOR THE PURPOSES OF THIS SECTION, "NONSERVICE AREA" MEANS AN AREA IN THIS STATE IN WHICH THE ARIZONA STATE RETIREMENT SYSTEM PURSUANT TO SECTION 38-782, THE DEPARTMENT OF ADMINISTRATION PURSUANT TO SECTION 38-651.01 OR THE MEMBER'S OR SURVIVOR'S PARTICIPATING EMPLOYER DOES NOT PROVIDE OR ADMINISTER A HEALTH CARE SERVICES ORGANIZATION PROGRAM, EXCLUDING ANY PREFERRED PROVIDER ORGANIZATION PROGRAM OR INDIVIDUAL HEALTH INDEMNITY POLICY, FOR WHICH THE RETIRED MEMBER OR SURVIVOR OF THE PLAN IS ELIGIBLE.

EXPLANATION OF BLEND
SECTION 38-951

Laws 2001, Chapters 280 and 380

Laws 2001, Ch. 280, section 9 — Effective August 9

Laws 2001, Ch. 380, section 15 — Effective August 9

Explanation

Since these two enactments are identical, the Laws 2001, Ch. 280 and Ch. 380 text changes to section 38-951 are blended in the form shown on the following page.

BLEND OF SECTION 38-951
Laws 2001, Chapters 280 and 380

38-951. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "BOARD" MEANS THE ARIZONA STATE RETIREMENT SYSTEM BOARD ESTABLISHED BY SECTION 38-713.

2. "ELIGIBLE GROUP" MEANS ANY OF THE FOLLOWING:

(a) THE ARIZONA STATE RETIREMENT SYSTEM ESTABLISHED BY ARTICLE 2 OF THIS CHAPTER.

(b) THE ELECTED OFFICIALS' RETIREMENT PLAN ESTABLISHED BY ARTICLE 3 OF THIS CHAPTER.

(c) THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM ESTABLISHED BY ARTICLE 4 OF THIS CHAPTER.

Chs. 280 and 380

(d) THE CORRECTIONS OFFICER RETIREMENT PLAN ESTABLISHED BY ARTICLE 6 OF THIS CHAPTER.

(e) AN OPTIONAL RETIREMENT PROGRAM ESTABLISHED PURSUANT TO SECTION 15-1451 OR 15-1628.

3. "EMPLOYER" MEANS AN AGENCY OR DEPARTMENT OF THIS STATE OR AN AGENCY OR DEPARTMENT OF A POLITICAL SUBDIVISION OF THIS STATE THAT HAS EMPLOYEES IN AN ELIGIBLE GROUP.

4. "FUND MANAGER" MEANS THE FUND MANAGER ESTABLISHED BY SECTION 38-848.

5. "PLAN" MEANS A SUPPLEMENTAL DEFINED CONTRIBUTION PLAN AUTHORIZED BY THIS ARTICLE.

EXPLANATION OF BLEND
SECTION 38-952

Laws 2001, Chapters 280 and 380

Laws 2001, Ch. 280, section 9 — Effective August 9

Laws 2001, Ch. 380, section 15 — Effective August 9

Explanation

Since the Ch. 380 version includes all of the changes made by the Ch. 280 version, the Laws 2001, Ch. 380 amendment of section 38-952 is the blend of both the Laws 2001, Ch. 280 and Ch. 380 versions.

BLEND OF SECTION 38-952
Laws 2001, Chapters 280 and 380

38-952. Supplemental defined contribution plan; establishment; administration

A. THE BOARD, EMPLOYER OR FUND MANAGER OF AN ELIGIBLE GROUP MAY ESTABLISH, ADMINISTER, MANAGE AND OPERATE A SUPPLEMENTAL DEFINED CONTRIBUTION PLAN. THE FUND MANAGER MAY ESTABLISH A SINGLE SUPPLEMENTAL DEFINED CONTRIBUTION PLAN FOR ALL CONTRIBUTING MEMBERS OF THE RETIREMENT SYSTEM AND PLANS IT ADMINISTERS.

B. IF A BOARD, EMPLOYER OR FUND MANAGER ESTABLISHES A SUPPLEMENTAL DEFINED CONTRIBUTION PLAN:

1. THE BOARD MAY DELEGATE AUTHORITY TO IMPLEMENT THE PLAN TO ITS DIRECTOR APPOINTED PURSUANT TO SECTION 38-715.

2. THE EMPLOYER MAY DELEGATE AUTHORITY TO IMPLEMENT THE PLAN TO ITS INTERNAL BENEFITS ADMINISTRATOR OR DESIGNEE.

3. THE FUND MANAGER MAY DELEGATE AUTHORITY TO IMPLEMENT THE PLAN TO THE ADMINISTRATOR EMPLOYED PURSUANT TO SECTION 38-848, SUBSECTION K, PARAGRAPH 6.

4. THE BOARD[, EMPLOYER] OR FUND MANAGER MAY: ——— Ch. 380

(a) EMPLOY SERVICES IT DEEMS NECESSARY, INCLUDING LEGAL SERVICES, FOR THE OPERATION AND ADMINISTRATION OF THE PLAN.

(b) ADMINISTER THE PLAN THROUGH CONTRACTS WITH MULTIPLE VENDORS.

Chs. 280 and 380

(c) PERFORM ALL ACTS, WHETHER OR NOT EXPRESSLY AUTHORIZED, THAT IT DEEMS NECESSARY AND PROPER FOR THE OPERATION AND PROTECTION OF THE PLAN.

(d) FOR THE PURPOSES OF THIS ARTICLE, ENTER INTO INTERGOVERNMENTAL AGREEMENTS PURSUANT TO TITLE 11, CHAPTER 7, ARTICLE 3.

C. A SUPPLEMENTAL DEFINED CONTRIBUTION PLAN SHALL BE DESIGNED TO BE A QUALIFIED GOVERNMENTAL PLAN UNDER SECTION 401(a) OF THE INTERNAL REVENUE CODE. THE LEGISLATURE INTENDS THAT A SUPPLEMENTAL DEFINED CONTRIBUTION PLAN IS A QUALIFIED PLAN UNDER SECTION 401 OF THE INTERNAL REVENUE CODE, AS AMENDED, OR SUCCESSOR PROVISIONS OF LAW, AND THAT A PLAN IS EXEMPT FROM TAXATION UNDER SECTION 501 OF THE INTERNAL REVENUE CODE. THE BOARD, EMPLOYER OR FUND MANAGER MAY ADOPT ANY ADDITIONAL PROVISIONS TO A PLAN THAT ARE NECESSARY TO FULFILL THIS INTENT.

D. ALTHOUGH DESIGNATED AS EMPLOYEE CONTRIBUTIONS, ALL EMPLOYEE CONTRIBUTIONS MADE TO A PLAN SHALL BE PICKED UP AND PAID BY THE EMPLOYER IN LIEU OF CONTRIBUTIONS BY THE EMPLOYEE. THE CONTRIBUTIONS PICKED UP BY AN EMPLOYER MAY BE MADE THROUGH A REDUCTION IN THE EMPLOYEE'S SALARY OR AN OFFSET AGAINST FUTURE SALARY INCREASES, OR A COMBINATION OF BOTH. AN EMPLOYEE PARTICIPATING IN A PLAN DOES NOT HAVE THE OPTION OF CHOOSING TO RECEIVE THE CONTRIBUTED AMOUNTS DIRECTLY INSTEAD OF THE EMPLOYER PAYING THE AMOUNTS TO THE PLAN. IT IS INTENDED THAT ALL EMPLOYEE CONTRIBUTIONS THAT ARE PICKED UP BY THE EMPLOYER AS PROVIDED IN THIS SUBSECTION SHALL BE TREATED AS EMPLOYER CONTRIBUTIONS UNDER SECTION 414(h) OF THE INTERNAL REVENUE CODE, SHALL BE EXCLUDED FROM EMPLOYEES' GROSS INCOME FOR FEDERAL AND STATE INCOME TAX PURPOSES AND ARE INCLUDABLE IN THE GROSS INCOME OF THE EMPLOYEES OR THEIR

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BENEFICIARIES ONLY IN THE TAXABLE YEAR IN WHICH THEY ARE DISTRIBUTED. THE SPECIFIED EFFECTIVE DATE OF THE PICKUP PURSUANT TO THIS SUBSECTION SHALL NOT BE BEFORE THE DATE THE PLAN RECEIVES NOTIFICATION FROM THE INTERNAL REVENUE SERVICE THAT PURSUANT TO SECTION 414(h) OF THE INTERNAL REVENUE CODE THE EMPLOYEE CONTRIBUTIONS PICKED UP SHALL NOT BE INCLUDED IN GROSS INCOME FOR INCOME TAX PURPOSES UNTIL THE TIME THAT THE PICKED UP CONTRIBUTIONS ARE DISTRIBUTED BY PENSION PAYMENTS. UNTIL NOTIFICATION IS RECEIVED, ANY CONTRIBUTIONS MADE UNDER SECTION 38-953, SUBSECTION D ARE MADE WITH AFTER-TAX CONTRIBUTIONS.

EXPLANATION OF BLEND
SECTION 38-953

Laws 2001, Chapters 280 and 380

Laws 2001, Ch. 280, section 9	Effective August 9
Laws 2001, Ch. 380, section 15	Effective August 9

Explanation

Since these two enactments are identical, the Laws 2001, Ch. 280 and Ch. 380 text changes to section 38-953 are blended in the form shown on the following page.

BLEND OF SECTION 38-953
Laws 2001, Chapters 280 and 380

38-953. Supplemental option

A. A SUPPLEMENTAL DEFINED CONTRIBUTION PLAN IS IN ADDITION TO AND DOES NOT REPLACE AN EMPLOYEE'S EXISTING STATE DEFINED BENEFIT RETIREMENT PLAN.

B. EXCEPT AS PROVIDED IN SUBSECTION C, ANY CONTRIBUTING MEMBER OF AN ELIGIBLE GROUP THAT ESTABLISHES A SUPPLEMENTAL DEFINED CONTRIBUTION PLAN AS AUTHORIZED BY THIS ARTICLE MAY PARTICIPATE IN THE SUPPLEMENTAL DEFINED CONTRIBUTION PLAN. PARTICIPATION IN THE PLAN AUTHORIZES THE MEMBER'S EMPLOYER TO MAKE REDUCTIONS OR DEDUCTIONS IN THE MEMBER'S SALARY. THE EMPLOYER SHALL INITIATE SALARY REDUCTIONS OR DEDUCTIONS FOR THE PLAN AS DIRECTED BY EACH EMPLOYEE PARTICIPATING IN THE PLAN AND SHALL SUBMIT ANY REPORTS REQUIRED BY THE PLAN. ANY SALARY DEFERRED UNDER THE PLAN SHALL BE INCLUDED AS REGULAR COMPENSATION OR SALARY FOR THE PURPOSE OF COMPUTING THE RETIREMENT AND PENSION BENEFITS EARNED BY ANY EMPLOYEE PARTICIPATING IN THE PLAN.

Chs. 280 and 380

C. IF THE ARIZONA STATE RETIREMENT SYSTEM ESTABLISHES A SUPPLEMENTAL DEFINED CONTRIBUTION PLAN AND AN EMPLOYER MEMBER OF THE ARIZONA STATE RETIREMENT SYSTEM ELECTS TO PARTICIPATE IN THE SUPPLEMENTAL DEFINED CONTRIBUTION PLAN, ANY EMPLOYEE MEMBER OF THE EMPLOYER MAY PARTICIPATE IN THE SUPPLEMENTAL DEFINED CONTRIBUTION PLAN.

D. IF AN EMPLOYEE ELECTS TO PARTICIPATE IN A PLAN PURSUANT TO THIS SUBSECTION, THE EMPLOYEE SHALL CONTRIBUTE AN AMOUNT EQUAL TO AT LEAST ONE PER CENT OF THE EMPLOYEE'S GROSS SALARY. AN ELECTION TO PARTICIPATE IN A PLAN IS IRREVOCABLE AND SHALL BE FOR A PERIOD OF AT LEAST ONE YEAR. AN EMPLOYEE MAY ANNUALLY INCREASE OR DECREASE THE EMPLOYEE CONTRIBUTIONS IN INCREMENTS OF ONE PER CENT UP TO THE MAXIMUM ALLOWED BY LAW. AN EMPLOYEE IS NOT REQUIRED TO CONTRIBUTE UNDER THIS SUBSECTION IN ORDER TO QUALIFY FOR AN EMPLOYER MATCH UNDER SUBSECTION E. THE EMPLOYER MATCH MAY ACCRUE FROM ANY PROGRAM ESTABLISHED BY THE EMPLOYER.

E. AN EMPLOYER MAY ELECT TO MATCH THE CONTRIBUTIONS MADE BY THE EMPLOYEE PURSUANT TO SUBSECTION D OR ANY OTHER PROGRAM ESTABLISHED BY THE EMPLOYER UNDER THE INTERNAL REVENUE CODE, INCLUDING ANY PLAN ESTABLISHED UNDER INTERNAL REVENUE CODE SECTION 401(a), 403(b) OR 457, AT A RATE DETERMINED BY THE EMPLOYER. THE RATE OF THE EMPLOYER MATCH SHALL BE DETERMINED AT THE BEGINNING OF THAT EMPLOYER'S BUDGET CYCLE AND SHALL TERMINATE AT THE END OF THAT BUDGET CYCLE.

EXPLANATION OF BLEND
SECTION 38-954

Laws 2001, Chapters 280 and 380

Laws 2001, Ch. 280, section 9 — Effective August 9

Laws 2001, Ch. 380, section 15 — Effective August 9

Explanation

Since these two enactments are identical, the Laws 2001, Ch. 280 and Ch. 380 text changes to section 38-954 are blended in the form shown on the following page.

BLEND OF SECTION 38-954
Laws 2001, Chapters 280 and 380

38-954. Vesting

Chs. 280 and 380

A. EMPLOYEE CONTRIBUTIONS AND EARNINGS ON EMPLOYEE CONTRIBUTIONS ARE IMMEDIATELY VESTED.

B. EMPLOYER MATCHING CONTRIBUTIONS, IF ANY, AND THE EARNINGS ON EMPLOYER MATCHING CONTRIBUTIONS ARE VESTED AND THE EMPLOYEE IS ENTITLED TO RECEIVE EMPLOYER MATCHING CONTRIBUTIONS AND EARNINGS ON THOSE CONTRIBUTIONS AS FOLLOWS:

1. IF THE EMPLOYEE HAS LESS THAN ONE YEAR OF CREDITED SERVICE IN AN ELIGIBLE GROUP, ZERO PER CENT.

2. IF THE EMPLOYEE HAS AT LEAST ONE YEAR BUT LESS THAN TWO YEARS OF CREDITED SERVICE IN AN ELIGIBLE GROUP, TWENTY PER CENT.

3. IF THE EMPLOYEE HAS AT LEAST TWO YEARS BUT LESS THAN THREE YEARS OF CREDITED SERVICE IN AN ELIGIBLE GROUP, FORTY PER CENT.

4. IF THE EMPLOYEE HAS AT LEAST THREE YEARS BUT LESS THAN FOUR YEARS OF CREDITED SERVICE IN AN ELIGIBLE GROUP, SIXTY PER CENT.

5. IF THE EMPLOYEE HAS AT LEAST FOUR YEARS BUT LESS THAN FIVE YEARS OF CREDITED SERVICE IN AN ELIGIBLE GROUP, EIGHTY PER CENT.

6. IF THE EMPLOYEE HAS AT LEAST FIVE YEARS OF CREDITED SERVICE IN AN ELIGIBLE GROUP, ONE HUNDRED PER CENT.

C. ALL NONVESTED EMPLOYER CONTRIBUTIONS AND EARNINGS ON THOSE CONTRIBUTIONS MAY BE USED TO PAY FOR THE ADMINISTRATIVE COSTS OF THE PLAN.

EXPLANATION OF BLEND
SECTION 40-408

Laws 2001, Chapters 238 and 300

Laws 2001, Ch. 238, section 10 — Effective August 9

Laws 2001, Ch. 300, section 5 — Effective August 9

Explanation

Since these two enactments are identical, the Laws 2001, Ch. 238 and Ch. 300 text changes to section 40-408 are blended in the form shown on the following page.

BLEND OF SECTION 40-408
Laws 2001, Chapters 238 and 300

40-408. Disposition of assessment proceeds; utility regulation revolving fund; exemption from lapsing

A. The utility regulation revolving fund is established.

B. All monies received by the commission under the provisions of section 40-401 shall be deposited, pursuant to sections 35-146 and 35-147, in the utility regulation revolving fund.

C. Subject to legislative appropriation, the commission shall use the monies in the utility regulation revolving fund for attorneys AND OTHER LEGAL STAFF employed pursuant to section 40-106, and all expenses of the utilities division, including compensation of auditors, economists and other staff, including staff with expertise in the area of corporate accounting, finance and management efficiency of all types of public service corporations, AND A PART OF THE EXPENSES FOR THE ADMINISTRATIVE AND HEARING DIVISIONS.

Chs. 238 and 300

D. Monies in the utility regulation revolving fund do not revert to the state general fund pursuant to section 35-190.

E. Monies not appropriated or expended from the utility regulation revolving fund at the end of the fiscal year shall be used to calculate the annual assessment prescribed in section 40-401.

F. The utilities division shall not use any monies from the utility regulation revolving fund unless such monies are appropriated by the legislature.

EXPLANATION OF BLEND
SECTION 41-603

Laws 2001, Chapters 262, 335 and 348

Laws 2001, Ch. 262, section 1	Effective August 9
Laws 2001, Ch. 335, section 7	Effective August 9
Laws 2001, Ch. 348, section 1	Effective August 9

Explanation

Since these three enactments are not incompatible, the Laws 2001, Ch. 262, Ch. 335 and Ch. 348 text changes to section 41-603 are blended in the form shown on the following page.

BLEND OF SECTION 41-603
Laws 2001, Chapters 262, 335 and 348

41-603. Powers and duties

A. The department may act as guardian of an incapacitated veteran, the incapacitated spouse of an incapacitated veteran or minor children of a veteran, or as conservator of the estate of a protected veteran or of the veteran's incapacitated or surviving spouse or of the minor children of a veteran.

B. The department shall:

1. Assist veterans and their families and dependents in presenting, providing and establishing claims, privileges, rights and benefits they may have under federal, state or local law.

2. Inform veterans and their families and dependents and military and civilian authorities about federal, state and local laws enacted to benefit veterans and their families and dependents and members of the armed forces.

3. Collect information relating to services and facilities available to veterans.

4. Cooperate with all government and private agencies receiving services for or benefits to veterans and their families and dependents.

5. Conduct administrative reviews and, if possible, correct abuses or prevent exploitation of veterans and their families or dependents and recommend corrective legislation.

6. Adopt rules deemed necessary to administer this article.

7. Enter into agreements with veterans' organizations in this state holding a charter granted by the Congress of the United States for the beneficial interest of veterans.

8. Determine eligibility for special license plates issued pursuant to section 28-2455.

9. Evaluate, supervise, approve and disapprove programs offered by educational institutions and training establishments pursuant to United States Code titles 10 and 38 and state rules, so that veterans and their dependents may draw the educational allowance provided by federal law while pursuing approved programs.

Ch. 335 — 10. ~~Register~~ APPROVE OR DISAPPROVE veterans' organizations seeking to solicit money or other support in this state in the name of American veterans.

Ch. 262 — C. THE DEPARTMENT MAY ACQUIRE PROPERTY FOR AND CONSTRUCT AND OPERATE A VETERANS' HOME FACILITY IN SOUTHERN ARIZONA.

Chs. 335 and 348 — D. THE DEPARTMENT MAY ACQUIRE PROPERTY FOR AND ESTABLISH AND OPERATE CEMETERIES FOR VETERANS IN THIS STATE.

EXPLANATION OF BLEND
SECTION 41-1378

Laws 2001, Chapters 261 and 344

Laws 2001, Ch. 261, section 1	Effective August 9
Laws 2001, Ch. 344, section 91	Conditionally effective

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 261 and Ch. 344 text changes to section 41-1378 are blended in the form shown on the following pages.

The publisher will print this blend version pending the occurrence of the condition stated in Laws 2001, Ch. 344. If the condition does not occur before October 1, 2001, Laws 2001, Ch. 344 does not become effective and the publisher will delete this blend version of section 41-1378.

BLEND OF SECTION 41-1378
Laws 2001, Chapters 261 and 344

41-1378. Complaint; investigation; investigative authority; violation; classification

A. All complaints shall be addressed to the ombudsman-citizens aide. If an agency receives correspondence between a complainant and the ombudsman-citizens aide, it shall hold that correspondence in trust and shall promptly forward the correspondence, unopened, to the ombudsman-citizens aide.

B. Within thirty days of receipt of the complaint, the ombudsman-citizens aide shall notify the complainant of the decision to investigate or not to investigate the complaint. If the ombudsman-citizens aide decides not to investigate and if requested by the complainant, the ombudsman-citizens aide shall provide the reasons for not investigating in writing.

C. The ombudsman-citizens aide shall not charge any fees for investigations or complaints.

D. In an investigation, the ombudsman-citizens aide may:

1. Make inquiries and obtain information considered necessary subject to the restrictions in section 41-1377.

2. Enter without notice to inspect agency premises with agency staff on the premises.

3. Hold hearings.

4. Notwithstanding any other law, have access to all state agency records, including confidential records, except:

(a) Sealed court records without a subpoena.

(b) Active criminal investigation records.

(c) Records that could lead to the identity of confidential police informants.

(d) Attorney work product and communications that are protected under the attorney-client privilege.

(e) Confidential information as defined in section 42-2001 except as
Ch. 261 provided in section 42-2003, subsection ~~M~~ N.

(f) Information protected by section 6103(d), 6103(p)(8) or 7213 of the internal revenue code.

(g) Confidential information relating to section 36-2903, subsection
Ch. 344 ~~J~~ I, section 36-2917, section 36-2932, subsection F or section 36-2972.

(h) Confidential information relating to sections 36-507, 36-509 and 36-2220.

5. Issue subpoenas if necessary to compel the attendance and testimony of witnesses and the production of books, records, documents and other evidence to which the ombudsman-citizens aide may have access pursuant to paragraph 4 of this subsection. The ombudsman-citizens aide may only issue a subpoena if the ombudsman-citizens aide has previously requested testimony or evidence and the person or agency to which the request was made has failed to comply with the request in a reasonable amount of time.

E. It is contrary to the public policy of this state for any state agency or any individual acting for a state agency to take any adverse action against an individual in retaliation because the individual cooperated with or provided information to the ombudsman-citizens aide or the ombudsman-citizens aide's staff.

F. If requested by the complainants or witnesses, the ombudsman-citizens aide shall maintain confidentiality with respect to those matters necessary to protect the identities of the complainants or witnesses. The ombudsman-citizens aide shall ensure that confidential records are not disclosed by either the ombudsman-citizens aide or staff to the ombudsman-citizens aide. The ombudsman-citizens aide shall maintain the confidentiality of an agency record. With respect to requests made pursuant to title 39, chapter 1, article 2 or other requests for information, the ombudsman-citizens aide shall maintain all records THAT ARE RECEIVED FROM A CUSTODIAL AGENCY in the same manner ~~that the ombudsman-citizens aide receives from the custodial agency as those on~~ AS the custodial agency WOULD IF IT HAD RECEIVED THE REQUEST.

Ch. 344

G. The ombudsman-citizens aide or any staff member or other employee of the ombudsman-citizens aide who knowingly divulges or makes known in any manner not permitted by law any particulars of any record, document or information for which the law restricts disclosure is guilty of a class 5 felony.

EXPLANATION OF BLEND
SECTION 41-1505

Laws 2001, Chapters 22 and 368

Laws 2001, Ch. 22, section 6 — Effective January 1, 2002

Laws 2001, Ch. 368, section 1 — Effective May 7, 2001

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 22 and Ch. 368 text changes to section 41-1505 are blended effective from and after December 31, 2001 in the form shown on the following pages. However, both the blend version and the Ch. 368 version of section 41-1505 will be published since the Ch. 368 version becomes effective before Ch. 22 version. The publisher will automatically delete the Ch. 368 version on publication of 2002 pocket part.

In subsection D (now E), the Laws 2001, Ch. 368 version added an internal reference to subsection E (now F). The Laws 2001, Ch. 22 version added an internal reference to subsection F. Also, in subsection E (now F) the Laws 2001, Ch. 368 version used the term "department". The Laws 2001, Ch. 22 version changed the term "department" to "office" in four places as a conforming change. Since it would not produce a substantive change, the blend version reflects the Ch. 22 version.

BLEND OF SECTION 41-1505
Laws 2001, Chapters 22 and 368

41-1505. Office of housing development; powers and duties

A. A state office of housing development is established in the ~~department~~ GOVERNOR'S OFFICE to be responsible for ~~providing,~~ ESTABLISHING POLICIES, PROCEDURES AND PROGRAMS THAT THE OFFICE IS AUTHORIZED TO CONDUCT TO ADDRESS THE AFFORDABLE HOUSING ISSUES CONFRONTING THIS STATE, INCLUDING HOUSING ISSUES OF LOW INCOME FAMILIES, MODERATE INCOME FAMILIES, HOUSING AFFORDABILITY, SPECIAL NEEDS POPULATIONS AND DECAYING HOUSING STOCK. AMONG OTHER THINGS, THE OFFICE SHALL PROVIDE to qualified housing participants and political subdivisions of this state, advisory, consultative, planning, training and educational assistance for the development of SAFE, DECENT AND AFFORDABLE HOUSING, INCLUDING housing for low and moderate income households ~~on a statewide basis~~.

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B. Under the direction of the director, the office shall:

1. Establish guidelines APPLICABLE TO THE PROGRAMS AND ACTIVITIES OF THE OFFICE for the construction or financing of ~~future~~ affordable HOUSING AND housing for low and moderate income ~~housing~~ HOUSEHOLDS in [~~the~~ THIS] state. THESE GUIDELINES SHALL MEET OR EXCEED ALL APPLICABLE STATE OR LOCAL BUILDING AND HEALTH AND SAFETY CODE REQUIREMENTS AND, IF APPLICABLE, THE NATIONAL MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS ACT OF 1974 AND TITLE VI OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 (P.L. 93-383, AS AMENDED BY P.L. 95-128, 96-153 AND 96-339).

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2. Provide staff support to the Arizona housing commission and coordinate its activities.

3. Accept and allocate any monies as from time to time may be appropriated by the legislature for the purposes set forth in this article.

4. Perform other duties necessary to administer the state housing development program.

5. PERFORM THE DUTIES PRESCRIBED IN SECTIONS 35-726, 35-728 AND 35-913 AND CHAPTER 4.3 OF THIS TITLE.

6. STIMULATE AND ENCOURAGE ALL LOCAL, STATE, REGIONAL AND FEDERAL GOVERNMENTAL AGENCIES AND ALL PRIVATE PERSONS AND ENTERPRISES THAT HAVE SIMILAR AND RELATED OBJECTIVES AND PURPOSES, COOPERATE WITH THE AGENCIES, PERSONS AND ENTERPRISES AND CORRELATE OFFICE PLANS, PROGRAMS AND OPERATIONS WITH THOSE OF THE AGENCIES, PERSONS AND ENTERPRISES.

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7. CONDUCT RESEARCH ON ITS OWN INITIATIVE OR AT THE REQUEST OF THE GOVERNOR, THE LEGISLATURE OR STATE OR LOCAL AGENCIES PERTAINING TO ANY OFFICE OBJECTIVES.

8. PROVIDE INFORMATION AND ADVICE ON REQUEST OF ANY LOCAL, STATE OR FEDERAL AGENCIES, PRIVATE PERSONS AND BUSINESS ENTERPRISES ON MATTERS WITHIN THE SCOPE OF OFFICE ACTIVITIES.

9. CONSULT WITH AND MAKE RECOMMENDATIONS TO THE GOVERNOR AND THE LEGISLATURE ON ALL MATTERS CONCERNING OFFICE OBJECTIVES.

10. MAKE ANNUAL REPORTS TO THE GOVERNOR AND THE LEGISLATURE ON ITS ACTIVITIES, INCLUDING THE GEOGRAPHIC LOCATION OF ITS ACTIVITIES, ITS FINANCES AND THE SCOPE OF ITS OPERATIONS.

C. Under the direction of the director, the responsibilities of the office may include the following:

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1. Assistance to secure construction and mortgage financing from public and private sector sources.

2. Assistance to ~~acquire~~ mortgage financing ~~from the sale of~~ PROGRAMS ESTABLISHED BY industrial development ~~authority~~ AUTHORITIES and ~~municipal mortgage revenue bond issues~~ POLITICAL SUBDIVISIONS OF THIS STATE.

3. Assistance for the acquisition and utilization of federal housing assistance programs pertinent to enhance the economic feasibility of a proposed residential development.

4. Assistance for the compliance of a proposed residential development with applicable federal, state and local codes and ordinances.

5. Preparation and publication of planning and development guidelines for the establishment and delivery of housing assistance programs.

6. CONTRACTING WITH A FEDERAL AGENCY TO CARRY OUT FINANCIAL WORK ON THE FEDERAL AGENCY'S BEHALF AND ACCEPTING PAYMENT FOR THE WORK.

7. SUBCONTRACTING FOR THE FINANCIAL WORK PRESCRIBED IN PARAGRAPH 6 OF THIS SUBSECTION AND MAKING PAYMENTS FOR THAT SUBCONTRACTED WORK BASED ON THE EXPECTATION THAT THE FEDERAL AGENCY WILL PAY FOR THAT WORK.

8. ACCEPTING PAYMENT FROM A FEDERAL AGENCY FOR WORK PRESCRIBED IN PARAGRAPH 6 OF THIS SUBSECTION.

9. CONTRACTING FOR THE SERVICES OF OUTSIDE ADVISERS, CONSULTANTS AND AIDES REASONABLY NECESSARY OR DESIRABLE TO ENABLE THE OFFICE TO ADEQUATELY PERFORM ITS DUTIES.

10. CONTRACTING AND INCURRING OBLIGATIONS REASONABLY NECESSARY OR DESIRABLE WITHIN THE GENERAL SCOPE OF OFFICE ACTIVITIES AND OPERATIONS TO ENABLE THE OFFICE TO ADEQUATELY PERFORM ITS DUTIES.

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11. USING ANY MEDIA OF COMMUNICATION, PUBLICATION AND EXHIBITION IN THE DISSEMINATION OF INFORMATION, ADVERTISING AND PUBLICITY IN ANY FIELD OF ITS PURPOSES, OBJECTIVES OR DUTIES.

12. ADOPTING RULES DEEMED NECESSARY OR DESIRABLE TO GOVERN ITS PROCEDURES AND BUSINESS.

13. CONTRACTING WITH OTHER AGENCIES IN FURTHERANCE OF ANY OFFICE PROGRAM.

14. USING MONIES, FACILITIES OR SERVICES TO PROVIDE CONTRIBUTIONS UNDER FEDERAL OR OTHER PROGRAMS THAT FURTHER THE OBJECTIVES AND PROGRAMS OF THE OFFICE.

15. ACCEPTING GIFTS, GRANTS, MATCHING MONIES OR DIRECT PAYMENTS FROM PUBLIC OR PRIVATE AGENCIES OR PRIVATE PERSONS AND ENTERPRISES FOR THE CONDUCT OF PROGRAMS THAT ARE CONSISTENT WITH THE GENERAL PURPOSES AND OBJECTIVES OF THE OFFICE.

16. ESTABLISHING AND COLLECTING FEES AND RECEIVING REIMBURSEMENT OF COSTS IN CONNECTION WITH ANY PROGRAMS OR DUTIES PERFORMED BY THE OFFICE.

17. PROVIDING STAFF SUPPORT TO THE ARIZONA HOUSING FINANCE AUTHORITY AND COORDINATING ITS ACTIVITIES.

D. FOR THE PURPOSES OF THIS SECTION, THE OFFICE IS EXEMPT FROM CHAPTER 23 OF THIS TITLE. Ch. 22

~~D.~~ E. The ~~department~~ OFFICE is the designated state public housing agency as defined in the United States housing act of 1937 (42 United States Code sections 1401 through 1440) for the purpose of accepting federal housing assistance monies and may participate in the housing assistance payments program. Federal monies ~~accepted shall only~~ MAY be secured FOR ALL AREAS OF THIS STATE SUBJECT ONLY TO THE LIMITATIONS PRESCRIBED IN SUBSECTION F OF THIS SECTION.

F. For areas of [~~the~~ THIS] state where an existing public housing authority has not been established pursuant to section 36-1404, subsection A~~.~~, the [~~department~~ OFFICE] acting as a public housing agency MAY UNDERTAKE ALL ACTIVITIES UNDER THE SECTION 8 TENANT-BASED RENTAL HOUSING ASSISTANCE PAYMENT PROGRAM, EXCEPT THAT THE OFFICE shall not undertake a ~~housing project~~ SECTION 8 TENANT-BASED RENTAL HOUSING ASSISTANCE PAYMENT PROGRAM within the boundaries of a city, town or county unless authorized by resolution of the governing body of the city, town or county. IF THE OFFICE ACCEPTS MONIES FOR A SECTION 8 TENANT-BASED RENTAL HOUSING ASSISTANCE PAYMENT PROGRAM FOR AREAS OF THIS STATE WHERE AN EXISTING PUBLIC HOUSING AUTHORITY HAS BEEN ESTABLISHED PURSUANT TO SECTION 36-1404, SUBSECTION A, THE OFFICE SHALL ONLY ACCEPT AND SECURE FEDERAL MONIES TO PROVIDE HOUSING FOR THE SERIOUSLY MENTALLY ILL OR OTHER DISABLED POPULATIONS. THE OFFICE MAY ACCEPT AND SECURE FEDERAL MONIES FOR THE UNDERTAKING OF ALL CONTRACT ADMINISTRATOR ACTIVITIES AUTHORIZED UNDER A SECTION 8 PROJECT-BASED RENTAL HOUSING ASSISTANCE PAYMENT PROGRAM IN ALL AREAS OF THIS STATE[,] AND THIS PARTICIPATION DOES NOT REQUIRE THE AUTHORIZATION OF ANY LOCAL GOVERNING BODY. Ch. 368 Ch. 22 Chs. 22 and 368 Ch. 22

~~E.~~ G. The ~~department~~ OFFICE shall not itself ~~finance,~~ DIRECTLY construct, ~~own,~~ operate~~, manage~~ or rehabilitate any housing units, EXCEPT AS MAY BE NECESSARY TO PROTECT THE OFFICE'S COLLATERAL OR SECURITY INTEREST ARISING OUT OF ANY OFFICE PROGRAMS.

~~F.~~ H. Notwithstanding any other provision of this section, the ~~department~~ OFFICE may ~~allocate~~ OBLIGATE monies as loans or grants APPLICABLE TO PROGRAMS AND ACTIVITIES OF THE OFFICE for the purpose of providing housing opportunities for low AND MODERATE income households OR FOR HOUSING AFFORDABILITY OR TO PREVENT OR COMBAT DECAYING HOUSING STOCK. Ch. 22

I. FOR ACTIVITIES AUTHORIZED IN SUBSECTION C, PARAGRAPHS 1, 2, 3, 6 AND 15 AND SUBSECTIONS E AND F OF THIS SECTION, EXCEPT FOR CONTRACT ADMINISTRATION ACTIVITIES IN CONNECTION WITH THE PROJECT-BASED SECTION 8 PROGRAM, THE OFFICE SHALL NOTIFY A CITY, TOWN, COUNTY OR TRIBAL GOVERNMENT THAT A PROGRAM OR PROJECT IS PLANNED FOR ITS JURISDICTION AND, BEFORE PROCEEDING, SHALL SEEK COMMENT FROM THE GOVERNING BODY OF THE CITY, TOWN, COUNTY OR TRIBAL GOVERNMENT OR AN OFFICIAL AUTHORIZED BY THE GOVERNING BODY OF THE CITY, TOWN, COUNTY OR TRIBAL GOVERNMENT. THE OFFICE SHALL NOT INTERFERE WITH OR ATTEMPT TO OVERRIDE THE LOCAL JURISDICTION'S PLANNING, ZONING OR LAND USE REGULATIONS.

EXPLANATION OF BLEND
SECTION 41-1505.11

Laws 2001, Chapters 22 and 368

Laws 2001, Ch. 22, section 7 — Effective January 1, 2002

Laws 2001, Ch. 368, section 2 — Effective September 1, 2001

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 22 and Ch. 368 text changes to section 41-1505.11 are blended effective from and after December 31, 2001 in the form shown on the following pages. However, both the blend version and the Ch. 368 version of section 41-1505.11 will be published since the Ch. 368 version becomes effective before the Ch. 22 version. The publisher will automatically delete the Ch. 368 version on publication of the 2002 pocket part.

BLEND OF SECTION 41-1505.11
Laws 2001, Chapters 22 and 368

41-1505.11. Arizona housing commission; definitions

A. An Arizona housing commission is established consisting of:

1. The following members who are appointed by the governor:

(a) One representative of a rural city government.

(b) One representative of a nonrural city government FROM A COUNTY WITH A POPULATION OF LESS THAN ONE MILLION FIVE HUNDRED THOUSAND PERSONS BUT MORE THAN FIVE HUNDRED THOUSAND PERSONS.

Ch. 368 (c) ONE REPRESENTATIVE OF A NONRURAL CITY GOVERNMENT FROM A COUNTY WITH A POPULATION OF ONE MILLION FIVE HUNDRED THOUSAND OR MORE PERSONS.

~~(c)~~ (d) One representative of a rural county government.

~~(d)~~ (e) One representative of a nonrural county government FROM A COUNTY WITH A POPULATION OF LESS THAN ONE MILLION FIVE HUNDRED THOUSAND PERSONS BUT MORE THAN FIVE HUNDRED THOUSAND PERSONS.

(f) ONE REPRESENTATIVE OF A NONRURAL COUNTY GOVERNMENT FROM A COUNTY WITH A POPULATION OF ONE MILLION FIVE HUNDRED THOUSAND OR MORE PERSONS.

~~(e)~~ (g) One representative of a tribal government.

(h) ONE REPRESENTATIVE OF A TRIBAL HOUSING DEPARTMENT.

~~(f)~~ (i) One representative of the banking or lending community.

~~(g)~~ (j) One representative of the special needs population.

~~(h)~~ (k) One representative of a statewide housing association.

~~(i)~~ (l) Two representatives of the private sector of the real estate industry.

~~(j)~~ (m) Three representatives from the private sector of the housing industry, one of whom is a home builder, one of whom is a multifamily housing developer and one of whom is a licensed manufactured home manufacturer or dealer.

Chs. 22 and 368 ~~(k)~~ (n) Two representatives of ~~the~~ nonprofit organizations that work on housing or other related issues, ONE OF WHOM REPRESENTS A NONPROFIT ORGANIZATION THAT WORKS IN A COUNTY WITH A POPULATION OF LESS THAN ONE MILLION FIVE HUNDRED THOUSAND PERSONS BUT MORE THAN FIVE HUNDRED THOUSAND PERSONS AND ONE OF WHOM REPRESENTS A NONPROFIT CORPORATION THAT WORKS IN A RURAL COUNTY.

Ch. 368 ~~(l)~~ (o) Two representatives of the general public, ONE OF WHOM IS FROM A COUNTY WITH A POPULATION OF LESS THAN ONE MILLION FIVE HUNDRED THOUSAND PERSONS BUT MORE THAN FIVE HUNDRED THOUSAND PERSONS AND ONE OF WHOM IS FROM A RURAL COUNTY. THESE MEMBERS SHALL NOT BE MEMBERS OF THE BOARD OR STAFF OF, OR HAVE ANY DIRECT OR INDIRECT BENEFIT FROM THE DEALINGS OF, A CORPORATION FORMED UNDER TITLE 35, CHAPTER 5, ARTICLE 1.

(p) ONE REPRESENTATIVE OF AN ORGANIZATION THAT WORKS ON FARMWORKER HOUSING ISSUES.

Ch. 22 2. The director of the ~~department of commerce~~ OFFICE OF HOUSING DEVELOPMENT or the director's designee. [THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY ONLY VOTE TO BREAK A TIE VOTE OF THE OTHER MEMBERS.] Ch. 368

3. The speaker of the house of representatives and the president of the senate or their designees who serve as advisory members. For purposes of this paragraph, "advisory members" means members who give advice to other members of the commission but who are not eligible to vote and are not members for the purpose of determining whether a quorum is present.

B. The commission shall:

1. Recommend affordable housing strategic planning and policy.

2. Coordinate public and private housing finance programs.

3. Provide the means for better private and public partnerships and initiatives for developing affordable housing.

4. Oversee all state housing programs.

5. Encourage the development of affordable housing opportunities for special needs populations.

6. Advise the governor, the legislature, state agencies and city, county and tribal governmental bodies on the public and private actions that affect the cost or supply of housing.

C. The members shall elect a chairperson and a vice-chairperson annually.

Ch. 368 D. THE COMMISSION SHALL MEET AT LEAST TWO TIMES EACH YEAR IN A COUNTY WITH A POPULATION OF LESS THAN ONE MILLION FIVE HUNDRED THOUSAND PERSONS BUT MORE THAN FIVE HUNDRED THOUSAND PERSONS AND AT LEAST ONE TIME EACH YEAR IN A RURAL COUNTY.

~~D.~~ E. Members appointed pursuant to subsection A, paragraph 1:

1. Serve four year terms.

2. Are not eligible to receive compensation but are eligible to receive reimbursement for expenses pursuant to title 38, chapter 4, article 2.

~~E.~~ F. The director of the office of housing development serves as executive director of the commission.

~~F.~~ G. For purposes of this section:

~~2.~~ 1. "Rural city" means either:

(a) A city or town [WITH A POPULATION] of less than fifty thousand persons in a county WITH A POPULATION of ~~less than four~~ FIVE hundred thousand persons OR LESS ~~according to the most recent United States decennial census~~. Chs. 22 and 368

Ch. 368 (b) A city or town within a census county division with [~~fewer~~ A POPULATION OF LESS] than fifty thousand persons in a county with a population of ~~four~~ MORE THAN FIVE hundred thousand ~~or more~~ persons ~~according to the most recent United States decennial census~~.

~~1.~~ 2. "Rural county" means a county with a population of ~~less than four~~ FIVE hundred thousand persons OR LESS ~~according to the most recent United States decennial census~~.

Ch. 22 3. "Special needs population" includes the homeless, THE seriously mentally ill, THE physically disabled, individuals infected with [~~HIV~~ THE HUMAN IMMUNODEFICIENCY VIRUS], THE elderly or other populations with specialized housing needs. Chs. 22 and 368

EXPLANATION OF BLEND
SECTION 41-1518

Laws 2001, Chapters 22 and 368

Laws 2001, Ch. 22, section 9 — Effective January 1, 2002

Laws 2001, Ch. 368, section 3 — Effective May 7, 2001
(Retroactive to July 1, 1997)

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 22 and Ch. 368 text changes to section 41-1518 are blended effective from and after December 31, 2001 in the form shown on the following pages. However, both the blend version and the Ch. 368 version of section 41-1518 will be published since the Ch. 368 version becomes effective before the Ch. 22 version. The publisher will automatically delete the Ch. 368 version on publication of the 2002 pocket part.

BLEND OF SECTION 41-1518
Laws 2001, Chapters 22 and 368

41-1518. Housing development fund; purpose

A. The housing development fund is established for the purpose of implementing an affordable housing demonstration program in areas in this state that contain state prison facilities. THE FUND CONSISTS OF MONIES PROVIDED FROM THE HOUSING TRUST FUND PURSUANT TO SECTION 44-313, SUBSECTION A, PARAGRAPH 2. The office of housing development shall administer the fund. Ch. 22

B. The office of housing development shall allocate fund monies as loans or grants for the construction or renovation of facilities for affordable housing pursuant to this section.

C. The communities of Buckeye, Douglas, Florence, Safford, Winslow and Yuma and other communities that are selected as sites for future prison facilities are eligible to receive monies pursuant to this section. A project is eligible to receive funding if the project is within a twenty mile radius of an existing or future prison site.

D. The office of housing development shall give preference to projects with local government support and commitments, including local general funds, fee waivers, government sponsored infrastructure improvements and land donations, and to projects that provide housing and shelter to families and individuals who are employed by state prison facilities.

E. Monies in the fund shall be used to provide long-term ~~affordable~~ housing opportunities for LOW AND MODERATE INCOME households ~~that are below the median income~~ AND FOR HOUSING AFFORDABILITY for areas authorized under subsection C OF THIS SECTION. Ch. 22

F. Five hundred thousand dollars of the monies in the fund shall be used for housing ~~projects~~ in eligible areas. Other monies in the fund shall be used for any purpose provided by this section.

G. The director of the office of housing development may grant loans from the fund to assist eligible communities in funding ~~affordable~~ housing ~~projects~~. The director may grant loans pursuant to the following terms and conditions:

1. The loans shall be made only for projects that meet the requirements of this section and that demonstrate financial viability.

2. The director of the office of housing development may assess an administrative fee on each loan to cover the annual cost to this state of administering the loan program.

3. Each loan shall be evidenced by a contract ~~that is entered into~~ OR CONTRACTS between ~~the~~ A political subdivision, ~~and the~~ A for-profit or not-for-profit housing developer and the director of the office of housing development, ~~—~~ acting on behalf of the state OR ANY COMBINATION OF A POLITICAL SUBDIVISION, A HOUSING DEVELOPER AND THE DIRECTOR. The contract shall provide for ~~equal~~ AT LEAST annual payments of principal and ~~the annual~~ MAY PROVIDE FOR payment of administrative fees for the term of the loan. Ch. 22

4. Each contract shall provide that the attorney general may commence any action that is necessary to enforce the contract and to achieve the repayment of loans that are made pursuant to this section.

H. LOAN PAYMENTS AND ADMINISTRATIVE fees ~~assessed~~ RECEIVED pursuant to subsection G~~, paragraph 2~~ of this section shall be deposited, pursuant to sections 35-146 and 35-147, in the housing development fund.

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I. Monies in the fund may also be spent for grants or other purposes that meet the requirements that are imposed on the use of the monies.

J. The director of the ~~department of commerce~~ OFFICE OF HOUSING DEVELOPMENT shall report annually to the legislature on the status of the fund. The report shall include a summary of facilities for which funding was provided during the preceding fiscal year and shall show the cost AND GEOGRAPHIC LOCATION of each facility and the number of individuals who benefitted from the construction or renovation of the facility. The report shall be submitted to the president of the senate and the speaker of the house of representatives no later than September 1 of each year.

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K. Monies in the fund are ~~subject to legislative appropriation~~ CONTINUOUSLY APPROPRIATED. On notice from the [~~department of commerce~~ OFFICE OF HOUSING DEVELOPMENT], the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

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L. FOR ACTIVITIES AUTHORIZED IN THIS SECTION, THE OFFICE SHALL NOTIFY A CITY, TOWN, COUNTY OR TRIBAL GOVERNMENT THAT A PROGRAM OR PROJECT IS PLANNED FOR ITS JURISDICTION AND, BEFORE PROCEEDING, SHALL SEEK COMMENT FROM THE GOVERNING BODY OF THE CITY, TOWN, COUNTY OR TRIBAL GOVERNMENT OR AN OFFICIAL AUTHORIZED BY THE GOVERNING BODY OF THE CITY, TOWN, COUNTY OR TRIBAL GOVERNMENT. THE OFFICE SHALL NOT INTERFERE WITH OR ATTEMPT TO OVERRIDE THE LOCAL JURISDICTION'S PLANNING, ZONING OR LAND USE REGULATIONS.

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EXPLANATION OF BLEND
SECTION 41-1713

Laws 2001, Chapters 212 and 231

Laws 2001, Ch. 212, section 1 — Effective August 9

Laws 2001, Ch. 231, section 9 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 212 and Ch. 231 text changes to section 41-1713 are blended in the form shown on the following pages.

BLEND OF SECTION 41-1713
Laws 2001, Chapters 212 and 231

41-1713. Powers and duties of director; authentication of records

A. The director of the department shall:

1. Be the administrative head of the department.

2. Subject to the merit system rules, appoint, suspend, demote, promote or dismiss all other classified employees of the department upon the recommendation of their respective division superintendent. The director shall determine and furnish the LAW ENFORCEMENT merit system council ESTABLISHED BY SECTION 41-1830.11 with a table of organization. The superintendent of each division shall serve at the concurrent pleasure of the director and the governor. (Ch. 212)

3. Make rules necessary for the operation of the department.

4. Annually submit a report of the work of the department to the governor and the legislature, or more often if requested by the governor or the legislature.

5. Appoint a deputy director with the approval of the governor.

6. Adopt an official seal which shall contain the words "department of public safety" encircling the seal of this state as part of its design.

7. Investigate, on receipt, credible evidence that a licensee OR REGISTRANT has been arrested for, charged with or convicted of an offense that would preclude the person from holding a ~~provisional~~ license, PROVISIONAL CERTIFICATE or registration certificate issued pursuant to title 32, chapter 26. (Chs. 212 and 231)

8. COOPERATE WITH THE ARIZONA-MEXICO COMMISSION IN THE GOVERNOR'S OFFICE AND WITH RESEARCHERS AT UNIVERSITIES IN THIS STATE TO COLLECT DATA AND CONDUCT PROJECTS IN THE UNITED STATES AND MEXICO ON ISSUES THAT ARE WITHIN THE SCOPE OF THE DEPARTMENT'S DUTIES AND THAT RELATE TO QUALITY OF LIFE, TRADE AND ECONOMIC DEVELOPMENT IN THIS STATE IN A MANNER THAT WILL HELP THE ARIZONA-MEXICO COMMISSION TO ASSESS AND ENHANCE THE ECONOMIC COMPETITIVENESS OF THIS STATE AND OF THE ARIZONA-MEXICO REGION. (Ch. 231)

B. The director may:

1. Issue commissions to officers of the department.

2. Request the cooperation of the utilities, communication media and public and private agencies and any sheriff or other peace officer in any county or municipality, within the limits of their respective jurisdictions when necessary, to aid and assist in the performance of any duty imposed by this chapter.

3. Cooperate with any public or private agency or person to receive or give necessary assistance and may contract for such assistance subject to legislative appropriation controls.

4. Utilize the advice of the board and cooperate with sheriffs, local police and peace officers within the state for the prevention and discovery of crimes, the apprehension of criminals and the promotion of public safety.

5. Acquire in the name of the state, either in fee or lesser estate or interest, any real or personal property which the director considers necessary for the department's use, by purchase, donation, dedication, exchange or other lawful means. All acquisitions of personal property pursuant to this paragraph shall be made as prescribed in chapter 23 of this title unless otherwise provided by law.

6. Dispose of any property, real or personal, or any right, title or interest therein, when the director determines that such property is no longer needed or necessary for the department's use. Disposition of personal property shall be as prescribed in chapter 23 of this title. The real property shall be sold by public auction or competitive bidding after notice published in a daily newspaper of general circulation, not less than three times, two weeks prior to the sale and subject to the approval of the director of the department of administration. When real property is sold, it shall not be sold for less than the appraised value as established by a competent real estate appraiser. Any funds derived from the disposal of real or personal property shall be deposited in the Arizona highway patrol fund as authorized by section 41-1752, subsection B, paragraph 6.

7. Sell, lend or lease personal property directly to any state, county or local law enforcement agency. Such personal property may be sold or leased at a predetermined price without competitive bidding. Any state, county or local law enforcement agency receiving such property may not resell or lease such property to any person or organization except for educational purposes.

8. Dispose of surplus property by transferring such property to the department of administration for disposition to another state budget unit or political subdivision if such state budget unit or political subdivision is not a law enforcement agency.

9. Lease or rent personal property directly to any state law enforcement officer for the purpose of traffic safety, traffic control or other law enforcement related activity.

10. Sell for one dollar, without public bidding, the department issued handgun or shotgun to a department officer on duty related retirement pursuant to title 38, chapter 5, article 4. Any funds derived from the sale of the handgun or shotgun to the retiring department officer shall be deposited in the Arizona highway patrol fund as authorized by section 41-1752, subsection B, paragraph 6.

11. Conduct state criminal history records checks for the purpose of updating and verifying the status of current ~~license holders~~ LICENSEES OR REGISTRANTS who have a license OR CERTIFICATE issued pursuant to title 32, chapter 26. The director shall investigate, upon receipt, credible evidence that a licensee OR REGISTRANT has been arrested for, charged with~~,~~ or convicted of an offense that would preclude the person from holding a provisional license or registration certificate issued pursuant to title 32, chapter 26.

Chs. 212 and 231

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12. GRANT A MAXIMUM OF TWO THOUSAND EIGHTY HOURS OF INDUSTRIAL INJURY LEAVE TO ANY SWORN DEPARTMENT EMPLOYEE WHO IS INJURED IN THE COURSE OF THE EMPLOYEE'S DUTY AND WHOSE WORK-RELATED INJURY PREVENTS THE EMPLOYEE FROM PERFORMING THE NORMAL DUTIES OF THAT EMPLOYEE'S CLASSIFICATION. THIS

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INDUSTRIAL INJURY LEAVE IS IN ADDITION TO ANY VACATION OR SICK LEAVE EARNED OR GRANTED TO THE EMPLOYEE AND DOES NOT AFFECT THE EMPLOYEE'S ELIGIBILITY FOR ANY OTHER BENEFITS, INCLUDING WORKERS' COMPENSATION. ON RETIREMENT OR SEPARATION FROM THE DEPARTMENT OR ON RECLASSIFICATION TO CIVILIAN STATUS, THE EMPLOYEE FORFEITS ANY UNUSED INDUSTRIAL INJURY LEAVE AND IS NOT ELIGIBLE FOR PAYMENT PURSUANT TO SECTION 38-615. SUBJECT TO APPROVAL BY THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL, THE DIRECTOR SHALL ADOPT RULES AND PROCEDURES REGARDING INDUSTRIAL INJURY LEAVE HOURS GRANTED PURSUANT TO THIS PARAGRAPH.

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C. The director and any employees of the department which the director designates in writing may use the seal adopted pursuant to subsection A, paragraph 6 of this section to fully authenticate any department records and copies of these records. These authenticated records or authenticated copies of records shall be judicially noticed and shall be received in evidence by the courts of this state without any further proof of their authenticity.

EXPLANATION OF BLEND
SECTION 41-1758.03

Laws 2001, Chapters 350 and 382

Laws 2001, Ch. 350, section 8 — Effective May 7

Laws 2001, Ch. 382, section 6 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 350 and Ch. 382 text changes to section 41-1758.03 are blended in the form shown on the following pages.

BLEND OF SECTION 41-1758.03
Laws 2001, Chapters 350 and 382

41-1758.03. Fingerprint clearance cards; issuance

A. On receiving the state and federal criminal history record of a person, the division shall compare the record with the list of criminal offenses that preclude the person from receiving a class one fingerprint clearance card. If the person's criminal history record does not contain any of the offenses listed in subsections B and C of this section, the division shall issue the person a class one fingerprint clearance card.

B. A person who is awaiting trial on or who has been convicted of committing OR ATTEMPTING TO COMMIT one or more of the following offenses in this state or THE SAME OR similar offenses in another state or jurisdiction is precluded from receiving a class one fingerprint clearance card: Ch. 350

1. Sexual abuse of a minor.
2. Sexual abuse of a vulnerable adult.
3. Incest.
4. First or second degree murder.
5. Kidnapping.
~~6. Arson.~~ Ch. 350
~~7.~~ 6. Sexual assault.
~~8.~~ 7. Sexual exploitation of a minor.
~~9.~~ 8. Sexual exploitation of a vulnerable adult.
~~10.~~ 9. Commercial sexual exploitation of a minor.
~~11.~~ 10. Commercial sexual exploitation of a vulnerable adult.
~~12.~~ 11. Felony offenses involving sale, distribution or transportation of, offer to sell, transport or distribute or conspiracy to sell, transport or distribute marijuana, dangerous drugs or narcotic drugs.
~~13.~~ 12. Robbery.
~~14.~~ 13. Child prostitution as prescribed in section 13-3212.
~~15.~~ 14. Child abuse.
~~16.~~ 15. Abuse of a vulnerable adult.
~~17.~~ 16. Sexual conduct with a minor.
~~18.~~ 17. Molestation of a child.
~~19.~~ 18. Molestation of a vulnerable adult.
~~20. Manslaughter.~~ Ch. 350
~~21.~~ 19. Aggravated assault.
~~22.~~ 20. A dangerous crime against children as defined in section 13-604.01.
~~23.~~ 21. Exploitation of minors involving drug offenses.
~~24.~~ 22. Felony offenses involving contributing to the delinquency of a minor.
~~25.~~ 23. Taking a child for the purposes of prostitution as defined in section 13-3206.
24. NEGLECT OR ABUSE OF A VULNERABLE ADULT.

C. A person who is awaiting trial on or who has been convicted of committing OR ATTEMPTING TO COMMIT one or more of the following offenses IN Ch. 350

Ch. 350 THIS STATE OR THE SAME OR SIMILAR OFFENSES IN ANOTHER STATE OR JURISDICTION is precluded from receiving a class one fingerprint clearance card, except that the person may petition the board of fingerprinting for a good cause exception pursuant to section 41-619.55:

1. MANSLAUGHTER.

~~1.~~ 2. Endangerment.

~~2.~~ 3. Threatening or intimidating.

~~3.~~ 4. Assault.

~~4.~~ 5. Unlawfully administering intoxicating liquors, narcotic drugs or dangerous drugs.

Ch. 350 ~~5. Assault by prisoners with intent to incite a riot or participate in a riot.~~

6. Assault by vicious animals.

7. Drive by shooting.

8. Assaults on officers or fire fighters.

9. Discharging a firearm at a structure.

10. Indecent exposure.

11. Public sexual indecency.

Ch. 382 ~~12. Lewd and lascivious acts.~~

~~13. Criminal damage.~~

~~14.~~ 12. Aggravated criminal damage.

~~15.~~ 13. Theft.

Ch. 350 ~~16. Unlawful use of means of transportation.~~

~~17.~~ 14. Theft by extortion.

~~18.~~ 15. Shoplifting.

~~19. Unlawful failure to return rented property.~~

~~20. Issuing a bad check.~~

~~21.~~ 16. Forgery.

~~22.~~ 17. Criminal possession of a forgery device.

~~23.~~ 18. Obtaining a signature by deception.

~~24.~~ 19. Criminal impersonation.

~~25.~~ 20. Theft of a credit card or obtaining a credit card by fraudulent means.

~~26.~~ 21. Receipt of anything of value obtained by fraudulent use of a credit card.

~~27.~~ 22. Forgery of a credit card.

~~28.~~ 23. Fraudulent use of a credit card.

~~29.~~ 24. Possession of any machinery, plate or other contrivance or incomplete credit card.

~~30.~~ 25. False statement as to financial condition or identity to obtain a credit card.

~~31.~~ 26. Fraud by persons authorized to provide goods or services.

~~32.~~ 27. Credit card transaction record theft.

~~33. Bribery of a public servant.~~

~~34. Trading in public office.~~

Ch. 350 ~~35. Commercial bribery.~~

~~36. Improper influence on a public officer or employee for consideration.~~

~~37.~~ 28. Misconduct involving weapons.

~~38.~~ 29. Misconduct involving explosives.

~~39.~~ 30. Depositing explosives.

~~40.~~ 31. Misconduct involving simulated explosive devices.

~~41.~~ 32. Concealed weapon violation.

~~42.~~ 33. Enticement of any persons for purposes of prostitution.

~~43.~~ 34. Procurement by false pretenses of any person for purposes of prostitution.

~~44.~~ 35. Procuring or placing persons in a house of prostitution.

~~45.~~ 36. Receiving earnings of a prostitute.

~~46.~~ 37. Causing one's spouse to become a prostitute.

~~47.~~ 38. Detention of persons in a house of prostitution for debt.

~~48.~~ 39. Keeping or residing in a house of prostitution or employment in prostitution.

~~49.~~ 40. Pandering.

~~50.~~ 41. Transporting persons for the purpose of prostitution or other immoral purposes.

~~51.~~ 42. Possession and sale of peyote.

~~52.~~ 43. Possession and sale of a vapor-releasing substance containing a toxic substance.

~~53.~~ 44. Sale of precursor chemicals.

~~54.~~ 45. Possession, use or sale of marijuana, dangerous drugs or narcotic drugs.

~~55.~~ 46. Manufacture or distribution of an imitation controlled substance.

~~56.~~ 47. Manufacture or distribution of an imitation prescription-only drug.

~~57.~~ 48. Manufacture or distribution of an imitation over-the-counter drug.

~~58.~~ 49. Possession or possession with intent to use an imitation controlled substance.

~~59.~~ 50. Possession or possession with intent to use an imitation prescription-only drug.

~~60.~~ 51. Possession or possession with intent to use an imitation over-the-counter drug.

~~61.~~ 52. Manufacture of certain substances and drugs by certain means.

~~62.~~ 53. Adding poison or other harmful substance to food, drink or medicine.

~~63. Dropping objects from an overpass.~~

~~64.~~ 54. A criminal offense involving criminal trespass and burglary under title 13, chapter 15.

~~65. A criminal offense involving business and commercial frauds under title 13, chapter 22.~~ Ch. 350

~~66.~~ 55. A criminal offense involving organized crime and fraud under title 13, chapter 23.

~~67.~~ 56. Child neglect.

~~68. Neglect of a vulnerable adult.~~

~~69.~~ 57. Misdemeanor offenses involving contributing to the delinquency of a minor.

~~70.~~ 58. A violation of section 28-1381, 28-1382 or 28-1383.

~~71.~~ 59. Offenses involving domestic violence.

Ch. 350 60. ARSON.

D. Notwithstanding subsection C of this section, on receiving written notice from the board of fingerprinting that a good cause exception was granted pursuant to section 41-619.55, the division shall issue a class one fingerprint clearance card to the person.

E. If a person is precluded from receiving a class one fingerprint clearance card pursuant to subsection B or C of this section, the division shall compare the employee's criminal history record with the list of criminal offenses that preclude the person from receiving a class two fingerprint clearance card. If the person's criminal history record does not contain any of the offenses listed in subsections F and G of this section, the division shall issue the person a class two fingerprint clearance card.

F. A person who is awaiting trial on or who has been convicted of committing OR ATTEMPTING TO COMMIT one or more of the following offenses in this state or THE SAME OR similar offenses in another state or jurisdiction is precluded from receiving a class two fingerprint clearance card: Ch. 350

1. Sexual abuse of a minor.
2. Incest.
3. First or second degree murder.
4. Sexual assault.
5. Sexual exploitation of a minor.
6. Commercial sexual exploitation of a minor.
7. A dangerous crime against children as defined in section 13-604.01.
8. Child abuse.
9. Sexual conduct with a minor.
10. Molestation of a child.
11. Exploitation of minors involving drug offenses.
12. SEXUAL ABUSE OF A VULNERABLE ADULT.
13. SEXUAL EXPLOITATION OF A VULNERABLE ADULT.
14. COMMERCIAL SEXUAL EXPLOITATION OF A VULNERABLE ADULT.
15. CHILD PROSTITUTION AS PRESCRIBED IN SECTION 13-3212.
16. ABUSE OF A VULNERABLE ADULT.
17. MOLESTATION OF A VULNERABLE ADULT. Ch. 350
18. TAKING A CHILD FOR THE PURPOSES OF PROSTITUTION AS PRESCRIBED IN SECTION 13-3206.
19. NEGLECT OF A VULNERABLE ADULT.

G. A person who is awaiting trial on or who has been convicted of committing OR ATTEMPTING TO COMMIT one or more of the following offenses IN THIS STATE OR THE SAME OR SIMILAR OFFENSES IN ANOTHER STATE OR JURISDICTION is precluded from receiving a class two fingerprint clearance card, except that the person may petition the board of fingerprinting for a good cause exception pursuant to section 41-619.55:

1. Arson.
2. Felony offenses involving contributing to the delinquency of a minor.
3. Felony offenses involving sale, distribution or transportation of, offer to sell, transport or distribute or conspiracy to sell, transport or distribute marijuana, dangerous drugs or narcotic drugs.
4. Felony offenses involving the possession or use of marijuana, dangerous drugs or narcotic drugs.

5. Burglary.
6. Aggravated or armed robbery.
7. Robbery.
8. Kidnapping.
9. Manslaughter.
10. Assault or aggravated assault.
11. A violation of section 28-1381, 28-1382 or 28-1383.
12. Offenses involving domestic violence.
Ch. 350 13. A CRIMINAL OFFENSE INVOLVING ORGANIZED CRIME AND FRAUD UNDER TITLE 13, CHAPTER 23.

H. Notwithstanding subsection G of this section, on receiving written notice from the board of fingerprinting that a good cause exception was granted pursuant to section 41-619.55, the division shall issue a class two fingerprint clearance card to the person.

I. If the division denies a person's application for a class one or class two fingerprint clearance card pursuant to subsection C or G of this section and a good cause exception is requested pursuant to section 41-619.55, the division shall release the person's criminal history record to the board of fingerprinting.

J. A person shall be granted a fingerprint clearance card if either of the following applies:

1. An agency granted a good cause exception before August 16, 1999 and no new crime is identified. The fingerprint clearance card shall specify only the program that granted the good cause exception. On the request of the applicant, the agency that granted the prior good cause exception shall notify the division in writing of the date on which the prior good cause exception was granted and the date of the conviction and the name of the offense for which the good cause exception was granted.

2. The board granted a good cause exception and no new crime is identified. The fingerprint clearance card shall specify the programs for which the board granted the good cause exception.

K. The licensee or contract provider shall assume the costs of fingerprint checks and may charge these costs to persons required to be fingerprinted.

L. A person who is under eighteen years of age or who is at least ninety-nine years of age is exempt from the fingerprint clearance card requirements of this section. At all times the person shall be under the direct visual supervision of personnel who have valid fingerprint clearance cards.

Ch. 350 M. The division may conduct periodic state criminal history ~~record~~ RECORDS checks for the purpose of updating the clearance status of current fingerprint clearance card holders and may notify the board of fingerprinting and the agency employing the person of the results of the records check.

N. The division shall maintain the fingerprint records of an individual who has received a fingerprint clearance card pursuant to section 15-534 until the individual reaches the age of ninety-nine or two years after the division is notified that the individual is deceased or until the division is notified by the state board of education of the expiration of the individual's certificate. The state board of education shall notify the division of the expiration of an individual's certificate within sixty days

of the expiration of the individual's certificate. The division shall include these records in the periodic state criminal history ~~record~~ RECORDS checks conducted pursuant to subsection M of this section.

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O. The division shall revoke a person's fingerprint clearance card on receipt of a written request for revocation from the board of fingerprinting pursuant to section 41-619.55.

P. The division shall not issue a class one or class two fingerprint clearance card to a person if the division cannot determine, within fifteen business days after receipt of the person's state and federal criminal history record information, whether the person is awaiting trial on or has been convicted of committing any of the offenses listed in subsection B, C, F or G of this section. If the division is unable to make the determination required by this section and does not issue a class one or class two fingerprint clearance card to a person, the person may request a good cause exception pursuant to section 41-619.55.

Q. If after conducting a state and federal criminal history record check the division determines that it is not authorized to issue a class one or class two fingerprint clearance card to a person, the division shall notify the agency that licenses or employs the person that the division is not authorized to issue a fingerprint clearance card.

R. The division is not liable for damages resulting from:

1. The issuance of a fingerprint clearance card to a person who is later found to have been ineligible to receive a fingerprint clearance card at the time the card was issued.

2. The denial of a fingerprint clearance card to a person who is later found to have been eligible to receive a fingerprint clearance card at the time issuance of the card was denied.

S. The issuance of a class one or class two fingerprint clearance card does not entitle a person to employment.

Ch. 350

~~T. If a court of competent jurisdiction sets aside a judgment of guilt pursuant to section 13-907 for a person who was convicted of an offense listed in subsection B, C, F, or G of this section, the person shall be issued a valid fingerprint clearance card unless a new crime is identified.~~

EXPLANATION OF BLEND
SECTION 41-1954

Laws 2001, Chapters 231 and 344

Laws 2001, Ch. 231, section 10	Effective August 9
Laws 2001, Ch. 344, section 92	Conditionally effective

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 231 and Ch. 344 text changes to section 41-1954 are blended in the form shown on the following pages.

The publisher will print this blend version pending the occurrence of the condition stated in Laws 2001, Ch. 344. If the condition does not occur before October 1, 2001, Laws 2001, Ch. 344 does not become effective and the publisher will delete this blend version of section 41-1954.

BLEND OF SECTION 41-1954
Laws 2001, Chapters 231 and 344

41-1954. Powers and duties

A. In addition to the powers and duties of the agencies listed in section 41-1953, subsection D the department shall:

1. Administer the following services:

(a) Employment services, which shall include manpower programs and work training, field operations, technical services, unemployment compensation, community work and training and other related functions in furtherance of programs under the social security act, as amended, the Wagner-Peyser act, as amended, the federal unemployment tax act, as amended, 33 United States Code, the family support act of 1988 (P.L. 100-485) and other related federal acts and titles.

(b) Individual and family services, which shall include a section on aging, services to children, youth and adults and other related functions in furtherance of social service programs under the social security act, as amended, title IV, grants to states for aid and services to needy families with children and for child-welfare services, title XX, grants to states for services, the older Americans act, as amended, the family support act of 1988 (P.L. 100-485) and other related federal acts and titles.

(c) Income maintenance services, which shall include categorical assistance programs, special services unit, child support collection services, establishment of paternity services, maintenance and operation of a state case registry of child support orders, a state directory of new hires, a support payment clearinghouse and other related functions in furtherance of programs under the social security act, title IV, grants to states for aid and services to needy families with children and for child-welfare services, title XX, grants to states for services, as amended, and other related federal acts and titles.

(d) Rehabilitation services, which shall include vocational rehabilitation services and sections for the blind and visually impaired, communication disorders, correctional rehabilitation and other related functions in furtherance of programs under the vocational rehabilitation act, as amended, the Randolph-Sheppard act, as amended, and other related federal acts and titles.

(e) Administrative services, which shall include the coordination of program evaluation and research, interagency program coordination and in-service training, planning, grants, development and management, information, legislative liaison, budget, licensing and other related functions.

(f) Manpower planning, which shall include a state manpower planning council for the purposes of the federal-state-local cooperative manpower planning system and other related functions in furtherance of programs under the comprehensive employment and training act of 1973, as amended, and other related federal acts and titles.

(g) Economic opportunity services, which shall include the furtherance of programs prescribed under the economic opportunity act of 1967, as amended, and other related federal acts and titles.

(h) Mental retardation and other developmental disability programs, with emphasis on referral and purchase of services. The program shall include educational, rehabilitation, treatment and training services and other related functions in furtherance of programs under the developmental disabilities services and facilities construction act, Public Law 91-517, and other related federal acts and titles.

(i) Nonmedical home and community based services and functions including department designated case management, housekeeping services, chore services, home health aid, personal care, visiting nurse services, adult day care or adult day health, respite sitter care, attendant care, home delivered meals and other related services and functions.

2. Provide a coordinated system of initial intake, screening, evaluation and referral of persons served by the department.

3. Adopt rules it deems necessary or desirable to further the objectives and programs of the department.

4. Formulate policies, plans and programs to effectuate the missions and purposes of the department.

5. Employ, determine the conditions of employment and prescribe the duties and powers of administrative, professional, technical, secretarial, clerical and other persons as may be necessary in the performance of its duties, contract for the services of outside advisors, consultants and aides as may be reasonably necessary and reimburse department volunteers, designated by the director, for expenses in transporting clients of the department on official business.

6. Make contracts and incur obligations within the general scope of its activities and operations subject to the availability of funds.

7. Contract with or assist other departments, agencies and institutions of the state, local and federal governments in the furtherance of its purposes, objectives and programs.

8. Be designated as the single state agency for the purposes of administering and in furtherance of each federally supported state plan.

9. Accept and disburse grants, matching funds and direct payments from public or private agencies for the conduct of programs which are consistent with the overall purposes and objectives of the department.

10. Provide information and advice on request by local, state and federal agencies and by private citizens, business enterprises and community organizations on matters within the scope of its duties subject to the departmental rules on the confidentiality of information.

11. Establish and maintain separate financial accounts as required by federal law or regulations.

12. Advise with and make recommendations to the governor and the legislature on all matters concerning its objectives.

13. Have an official seal which shall be judicially noticed.

14. Annually estimate the current year's population of each county, city and town in this state, using the periodic census conducted by the United States department of commerce, or its successor agency, as the basis

for such estimates and deliver such estimates to the economic estimates
Ch. 344 — commission ~~prior to~~ BEFORE December 15.

15. Estimate the population of any newly annexed areas of a political subdivision as of July 1 of the fiscal year in which the annexation occurs and deliver such estimates as promptly as is feasible after the annexation occurs to the economic estimates commission.

16. Establish and maintain a statewide program of services for persons who are both hearing impaired and visually impaired and coordinate appropriate services with other agencies and organizations to avoid duplication of these services and to increase efficiency. The department of economic security shall enter into agreements for the utilization of the personnel and facilities of the department of economic security, the department of health services and other appropriate agencies and organizations in providing these services.

17. Establish and charge fees for deposit in the department of economic security prelayoff assistance services fund to employers who voluntarily participate in the services of the department which provide job service and retraining for persons who have been or are about to be laid off from employment. The department shall charge only those fees necessary to cover the costs of administering the job service and retraining services.

18. Establish a focal point for addressing the issue of hunger in Arizona and provide coordination and assistance to public and private nonprofit organizations which aid hungry persons and families throughout this state. Specifically such activities shall include:

(a) Collecting and disseminating information regarding the location and availability of surplus food for distribution to needy persons, the availability of surplus food for donation to charity food bank organizations, and the needs of charity food bank organizations for surplus food.

(b) Coordinating the activities of federal, state, local and private
Ch. 344 — nonprofit organizations ~~which~~ THAT provide food assistance to the hungry.

(c) Accepting and disbursing federal monies, and any state monies appropriated by the legislature, to private nonprofit organizations in
Ch. 231 — support of the collection, receipt, handling, storage~~,~~ and distribution of donated or surplus food items.

(d) Providing technical assistance to private nonprofit organizations
Ch. 344 — ~~which~~ THAT provide or intend to provide services to the hungry.

(e) Developing a state plan on hunger which, at a minimum, identifies the magnitude of the hunger problem in this state, the characteristics of the population in need, the availability and location of charity food banks and the potential sources of surplus food, assesses the effectiveness of the donated food collection and distribution network and other efforts to alleviate the hunger problem, and recommends goals and strategies to improve the status of the hungry. The state plan on hunger shall be incorporated into the department's state comprehensive plan prepared pursuant to section 41-1956.

(f) Establishing a special purpose advisory council on hunger pursuant to section 41-1981.

19. Establish an office to address the issue of homelessness and to provide coordination and assistance to public and private nonprofit

Ch. 344 — organizations ~~which~~ THAT prevent homelessness or aid homeless individuals and families throughout this state. These activities shall include:

(a) Promoting and participating in planning for the prevention of homelessness and the development of services to homeless persons.

(b) Identifying and developing strategies for resolving barriers in state agency service delivery systems that inhibit the provision and coordination of appropriate services to homeless persons and persons in danger of being homeless.

(c) Assisting in the coordination of the activities of federal, state
Ch. 344 — and local governments and the private sector ~~which~~ THAT prevent homelessness or provide assistance to homeless people.

(d) Assisting in obtaining and increasing funding from all appropriate sources to prevent homelessness or assist in alleviating homelessness.

(e) Serving as a clearinghouse on information regarding funding and services available to assist homeless persons and persons in danger of being homeless.

(f) Developing an annual state comprehensive homeless assistance plan to prevent and alleviate homelessness.

(g) Submitting an annual report by January 1, 1992 and each year thereafter to the governor, the president of the senate and the speaker of the house of representatives on the status of homelessness and efforts to prevent and alleviate homelessness.

20. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data AND CONDUCT PROJECTS IN THE UNITED STATES AND MEXICO on issues that are within
Ch. 231 — the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess AND ENHANCE the economic competitiveness of this state and of the ~~state of Sonora, Mexico~~ ARIZONA-MEXICO REGION.

B. If the department has responsibility for the care, custody or control of a child or is paying the cost of care for a child, it may serve as representative payee to receive and administer social security and veterans administration benefits and other benefits payable to such child. Notwithstanding any law to the contrary, the department:

1. Shall deposit, pursuant to sections 35-146 and 35-147, such monies as it receives to be retained separate and apart from the state general fund on the books of the department of administration.

2. May use such monies to defray the cost of care and services expended by the department for the benefit, welfare and best interests of the child and invest any of the monies that the director determines are not necessary for immediate use.

3. Shall maintain separate records to account for the receipt, investment and disposition of funds received for each child.

Ch. 344 — 4. ~~Shall, upon~~ ON termination of the department's responsibility for the child, SHALL release any funds remaining to the child's credit in accordance with the requirements of the funding source or in the absence of such requirements shall release the remaining funds to:

(a) The child, if the child is at least eighteen years of age or is emancipated.

(b) The person responsible for the child if the child is a minor and not emancipated.

Ch. 344 C. ~~Nothing in~~ Subsection B of this section ~~shall~~ DOES NOT pertain to benefits payable to or for the benefit of a child receiving services under title 36.

D. Volunteers reimbursed for expenses pursuant to subsection A, paragraph 5 of this section are not eligible for workers' compensation under title 23, chapter 6.

E. In implementing the temporary assistance for needy families program pursuant to Public Law 104-193, the department shall provide for cash assistance to two parent families if both parents are able to work only upon documented participation by both parents in work activities described in title 46, chapter 2, article 5, except that payments may be made to families who do not meet the participation requirements if:

1. It is determined on an individual case basis that they have emergency needs.

2. The family is determined to be eligible for diversion from long-term cash assistance pursuant to title 46, chapter 2, article 5.

F. The department shall provide for cash assistance under temporary assistance for needy families pursuant to Public Law 104-193 to two parent families for no longer than six months if both parents are able to work, except that additional assistance may be provided on an individual case basis to families with extraordinary circumstances. The department shall establish by rule the criteria to be used to determine eligibility for additional cash assistance.

G. The department may establish a representative payee program to provide representative payee services to manage social security or supplemental security income benefits for persons who are receiving general assistance benefits pursuant to section 46-233 and who require the services of a representative payee to manage social security or supplemental security income benefits. The department may use not more than an average of eight hundred fifty dollars for any one person annually from monies appropriated for general assistance benefits for the purpose of paying persons or agencies to provide representative payee services.

H. The department shall adopt the following discount medical payment system no later than October 1, 1993 for persons who the department determines are eligible and who are receiving rehabilitation services pursuant to subsection A, paragraph 1, subdivision (d) of this section:

1. For inpatient hospital admissions and outpatient hospital services the department shall reimburse a hospital according to the tiered per diem rates and outpatient cost-to-charge ratios established by the Arizona health care cost containment system pursuant to section 36-2903.01,

Ch. 344 subsection ~~J~~ H.

2. The department's liability for a hospital claim under this subsection is subject to availability of funds.

3. A hospital bill is considered received for purposes of paragraph 5 of this subsection upon initial receipt of the legible, error-free claim form by the department if the claim includes the following error-free documentation in legible form:

(a) An admission face sheet.
(b) An itemized statement.
(c) An admission history and physical.
(d) A discharge summary or an interim summary if the claim is split.
(e) An emergency record, if admission was through the emergency room.
(f) Operative reports, if applicable.
(g) A labor and delivery room report, if applicable.

4. The department shall require that the hospital pursue other third party payors ~~prior to~~ BEFORE submitting a claim to the department. Payment received by a hospital from the department pursuant to this subsection is considered payment by the department of the department's liability for the hospital bill. A hospital may collect any unpaid portion of its bill from other third party payors or in situations covered by title 33, chapter 7, article 3.

5. For inpatient hospital admissions and outpatient hospital services rendered on and after October 1, 1997, if the department receives the claim directly from the hospital, the department shall pay a hospital's rate established according to this section subject to the following:

(a) If the hospital's bill is paid within thirty days of the date the bill was received, the department shall pay ninety-nine per cent of the rate.

(b) If the hospital's bill is paid after thirty days but within sixty days of the date the bill was received, the department shall pay one hundred per cent of the rate.

(c) If the hospital's bill is paid any time after sixty days of the date the bill was received, the department shall pay one hundred per cent of the rate plus a fee of one per cent per month for each month or portion of a month following the sixtieth day of receipt of the bill until the date of payment.

6. For medical services other than those for which a rate has been established pursuant to section 36-2903.01, subsection ~~J~~ H, the department shall pay according to the Arizona health care cost containment system capped fee-for-service schedule adopted pursuant to section 36-2904, subsection ~~M~~ L or any other established fee schedule the department determines reasonable.

I. The department shall not pay claims for services pursuant to this section ~~which~~ THAT are submitted more than nine months after the date of service for which the payment is claimed.

J. To assist in the location of persons or assets for the purpose of establishing paternity, establishing, modifying or enforcing child support obligations and other related functions, the department has access, including automated access if the records are maintained in an automated data base, to records of state and local government agencies, including:

1. Vital statistics, including records of marriage, birth and divorce.
2. State and local tax and revenue records, including information on residence address, employer, income and assets.
3. Records concerning real and titled personal property.
4. Records of occupational and professional licenses.
5. Records concerning the ownership and control of corporations, partnerships and other business entities.
6. Employment security records.

7. Records of agencies administering public assistance programs.

8. Records of the motor vehicle division of the department of transportation.

9. Records of the state department of corrections.

10. Any system used by a state agency to locate a person for motor vehicle or law enforcement purposes, including access to information contained in the Arizona criminal justice information system.

K. Notwithstanding subsection J of this section, the department or its agents shall not seek or obtain information on the assets of an individual unless paternity is presumed pursuant to section 25-814 or established.

L. Access to records of the department of revenue pursuant to subsection J of this section shall be provided in accordance with section 42-2003.

M. The department also has access to certain records held by private entities with respect to child support obligors or obligees, or individuals against whom such an obligation is sought. The information shall be obtained as follows:

1. In response to a child support subpoena issued by the department pursuant to section 25-520, the names and addresses of these persons and the names and addresses of the employers of these persons, as appearing in customer records of public utilities and cable television companies.

2. Information on these persons held by financial institutions.

N. Pursuant to department rules, the department may compromise or settle any support debt owed to the department if the director or an authorized agent determines that it is in the best interest of the state and after considering each of the following factors:

1. The obligor's financial resources.

2. The cost of further enforcement action.

3. The likelihood of recovering the full amount of the debt.

O. Notwithstanding any law to the contrary, a state or local governmental agency or private entity is not subject to civil liability for the disclosure of information made in good faith to the department pursuant to this section.

EXPLANATION OF BLEND
SECTION 41-2501

Laws 2001, Chapters 18 and 100

Laws 2001, Ch. 18, section 1 — Effective August 9

Laws 2001, Ch. 100, section 7 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 18 and Ch. 100 text changes to section 41-2501 are blended in the form shown on the following pages.

Section 41-2501 was amended an additional time by Laws 2001, Ch. 344 with a conditional enactment that will require a separate blend in addition to this blend.

BLEND OF SECTION 41-2501
Laws 2001, Chapters 18 and 100

41-2501. Applicability

A. This chapter applies only to procurements initiated after January 1, 1985 unless the parties agree to its application to procurements initiated before that date.

B. This chapter applies to every expenditure of public monies, including federal assistance monies except as otherwise specified in section 41-2637, by this state, acting through a state governmental unit as defined in this chapter, under any contract, except that this chapter does not apply to either grants as defined in this chapter, or contracts between this state and its political subdivisions or other governments, except as provided in chapter 24 of this title and in article 10 of this chapter. This chapter also applies to the disposal of state materials. Nothing in this chapter or in rules adopted under this chapter shall prevent any state governmental unit or political subdivision from complying with the terms and conditions of any grant, gift, bequest or cooperative agreement.

C. All political subdivisions and other local public agencies of this state may adopt all or any part of this chapter and the rules adopted pursuant to this chapter.

D. The Arizona board of regents, the legislative and judicial branches of state government and the state compensation fund are not subject to the provisions of this chapter except as prescribed in subsection E of this section.

E. The Arizona board of regents and the judicial branch shall adopt rules prescribing procurement policies and procedures for themselves and institutions under their jurisdiction. The rules must be substantially equivalent to the policies and procedures prescribed in this chapter.

F. The Arizona state lottery commission is exempt from the provisions of this chapter for procurement relating to the design and operation of the lottery or purchase of lottery equipment, tickets and related materials. The executive director of the Arizona state lottery commission shall adopt rules substantially equivalent to the policies and procedures in this chapter for procurement relating to the design and operation of the lottery or purchase of lottery equipment, tickets or related materials. All other procurement shall be as prescribed by this chapter.

G. The Arizona health care cost containment system administration is exempt from the provisions of this chapter for provider contracts pursuant to section 36-2904, subsection A and contracts for goods and services including program contractor contracts pursuant to title 36, chapter 29, articles 2 and 3. All other procurement, including contracts for the statewide administrator of the program pursuant to section 36-2903, subsection C, shall be as prescribed by this chapter.

H. Arizona industries for the blind is exempt from the provisions of this chapter for purchases of finished goods from members of national

industries for the blind and for purchases of raw materials for use in the manufacture of products for sale pursuant to section 41-1972. All other procurement shall be as prescribed by this chapter.

I. Arizona correctional industries is exempt from the provisions of this chapter for purchases of raw materials, components and supplies that are used in the manufacture or production of goods or services for sale entered into pursuant to section 41-1622. All other procurement shall be as prescribed by this chapter.

J. The state transportation board and the director of the department of transportation are exempt from the provisions of this chapter other than section 41-2586 for the procurement of construction or reconstruction, including engineering services, of transportation facilities or highway facilities AND ANY OTHER SERVICES THAT ARE DIRECTLY RELATED TO LAND TITLES, APPRAISALS, REAL PROPERTY ACQUISITION, RELOCATION, PROPERTY MANAGEMENT OR BUILDING FACILITY DESIGN AND CONSTRUCTION FOR HIGHWAY DEVELOPMENT AND THAT ARE REQUIRED PURSUANT TO TITLE 28, CHAPTER 20.

Ch. 100

K. The Arizona highways magazine is exempt from the provisions of this chapter for contracts for the production, promotion, distribution and sale of the magazine and related products and for contracts for sole source creative works entered into pursuant to section 28-7314, subsection A, paragraph 5. All other procurement shall be as prescribed by this chapter.

L. The secretary of state is exempt from the provisions of this chapter for contracts entered into pursuant to section 41-1012 to publish and sell the administrative code. All other procurement shall be as prescribed by this chapter.

M. The provisions of this chapter are not applicable to contracts for professional witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial proceeding in which this state is or may become a party or to contract for special investigative services for law enforcement purposes.

N. The head of any state governmental unit, in relation to any contract exempted by this section from the provisions of this chapter, has the same authority to adopt rules, procedures or policies as is delegated to the director pursuant to this chapter.

O. Agreements negotiated by legal counsel representing this state in settlement of litigation or threatened litigation are exempt from the provisions of this chapter.

P. The provisions of this chapter are not applicable to contracts entered into by the department of economic security with a provider licensed or certified by an agency of this state to provide child day care services or with a provider of family foster care pursuant to section 8-503 or 36-554, to contracts entered into with area agencies on aging created pursuant to the older Americans act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code ~~section~~ SECTIONS 3001 through 3058ee) or to contracts for services pursuant to title 36, chapter 29, article 2.

Ch. 100

Q. The department of health services may not require that persons with whom it contracts follow the provisions of this chapter for the purposes of subcontracts entered into for the provision of the following:

1. Mental health services pursuant to section 36-189, subsection B.

2. Services for the seriously mentally ill pursuant to title 36, chapter 5, article 10.

3. Drug and alcohol services pursuant to section 36-141.

4. Domestic violence services pursuant to title 36, chapter 30, article 1.

R. The department of health services is exempt from the provisions of this chapter for contracts for services of physicians at the Arizona state hospital.

S. Contracts for goods and services approved by the fund manager of the public safety personnel retirement system are exempt from the provisions of this chapter.

T. The Arizona department of agriculture is exempt from this chapter with respect to contracts for private labor and equipment to effect cotton or cotton stubble plow-up pursuant to rules adopted under title 3, chapter 2, article 1. On or before September 1 each year the director of the Arizona department of agriculture shall establish and announce costs for each acre of cotton or cotton stubble to be abated by private contractors.

U. The Arizona state parks board is exempt from the provisions of this chapter for purchases of guest supplies and items for resale such as food, linens, gift items, sundries, furniture, china, glassware and utensils for the facilities located in the Tonto natural bridge state park.

V. The Arizona state parks board is exempt from the provisions of this chapter for the purchase, production, promotion, distribution and sale of publications, souvenirs and sundry items obtained and produced for resale.

W. The Arizona state schools for the deaf and the blind are exempt from the provisions of this chapter when purchasing products through a cooperative that is organized and operates in accordance with state law if such products are not available on a statewide contract and are related to the operation of the schools or are products for which special discounts are offered for educational institutions.

X. Expenditures of monies in the morale, welfare and recreational fund established by section 26-153 are exempt from the provisions of this chapter.

Y. The state department of corrections is exempt from the provisions of this chapter for purchases of food commodities to be used in the preparation of meals for inmates AND FOR THE PURCHASE OF INMATE STORE GOODS. All other procurement shall be as prescribed by this chapter.

Ch. 18

Z. Notwithstanding section 41-2534, the director of the state department of corrections may contract with local medical providers in counties with a population of less than four hundred thousand persons according to the most recent United States decennial census for the following purposes:

1. To acquire hospital and professional medical services for inmates who are incarcerated in state department of corrections facilities that are located in those counties.

2. To ensure the availability of emergency medical services to inmates in all counties by contracting with the closest medical facility that offers emergency treatment and stabilization.

AA. The department of environmental quality is exempt from the provisions of this chapter for contracting for procurements relating to the

water quality assurance revolving fund program established pursuant to title 49, chapter 2, article 5. The department shall engage in a source selection process that is similar to the procedures prescribed by this chapter. The department may contract for remedial actions with a single selection process. The exclusive remedy for disputes or claims relating to contracting pursuant to this subsection is as prescribed by article 9 of this chapter and the rules adopted pursuant to that article. All other procurement by the department shall be as prescribed by this chapter.

BB. The motor vehicle division of the department of transportation is exempt from the provisions of this chapter for third party authorizations pursuant to title 28, chapter 13, only if all of the following conditions exist:

1. The division does not pay any public monies to an authorized third party.

2. Exclusivity is not granted to an authorized third party.

3. The director has complied with the requirements prescribed in title 28, chapter 13 in selecting an authorized third party.

CC. This section does not exempt third party authorizations pursuant to title 28, chapter 13 from any other applicable law.

DD. The state forester is exempt from the provisions of this chapter for purchases and contracts relating to wild land fire suppression and pre-positioning equipment resources and for other activities related to combating wild land fires and other unplanned risk activities, including fire, flood, earthquake, wind and hazardous material responses. All other procurement by the state forester shall be as prescribed by this chapter.

EXPLANATION OF BLEND
SECTION 41-2501

Laws 2001, Chapters 18, 100 and 344

Laws 2001, Ch. 18, section 1	Effective August 9
Laws 2001, Ch. 100, section 7	Effective August 9
Laws 2001, Ch. 344, section 93	Conditionally effective

Explanation

Since these three enactments are not incompatible, the Laws 2001, Ch. 18, Ch. 100 and Ch. 344 text changes to section 41-2501 are blended in the form shown on the following pages.

The publisher will print this blend version pending the occurrence of the condition stated in Laws 2001, Ch. 344. If the condition does not occur before October 1, 2001, Laws 2001, Ch. 344 does not become effective and the publisher will delete this blend version of section 41-2501.

BLEND OF SECTION 41-2501
Laws 2001, Chapters 18, 100 and 344

41-2501. Applicability

A. This chapter applies only to procurements initiated after January 1, 1985 unless the parties agree to its application to procurements initiated before that date.

B. This chapter applies to every expenditure of public monies, including federal assistance monies except as otherwise specified in section 41-2637, by this state, acting through a state governmental unit as defined in this chapter, under any contract, except that this chapter does not apply to either grants as defined in this chapter, or contracts between this state and its political subdivisions or other governments, except as provided in chapter 24 of this title and in article 10 of this chapter. This chapter also applies to the disposal of state materials. ~~Nothing in~~ This chapter ~~or in~~ AND rules adopted under this chapter ~~shall~~ DO NOT prevent any state governmental unit or political subdivision from complying with the terms ~~and conditions~~ of any grant, gift, bequest or cooperative agreement. Ch. 344

C. All political subdivisions and other local public agencies of this state may adopt all or any part of this chapter and the rules adopted pursuant to this chapter.

D. The Arizona board of regents, the legislative and judicial branches of state government and the state compensation fund are not subject to the provisions of this chapter except as prescribed in subsection E of this section.

E. The Arizona board of regents and the judicial branch shall adopt rules prescribing procurement policies and procedures for themselves and institutions under their jurisdiction. The rules must be substantially equivalent to the policies and procedures prescribed in this chapter.

F. The Arizona state lottery commission is exempt from the provisions of this chapter for procurement relating to the design and operation of the lottery or purchase of lottery equipment, tickets and related materials. The executive director of the Arizona state lottery commission shall adopt rules substantially equivalent to the policies and procedures in this chapter for procurement relating to the design and operation of the lottery or purchase of lottery equipment, tickets or related materials. All other procurement shall be as prescribed by this chapter.

G. The Arizona health care cost containment system administration is exempt from the provisions of this chapter for provider contracts pursuant to section 36-2904, subsection A and contracts for goods and services including program contractor contracts pursuant to title 36, chapter 29, articles 2 and 3. All other procurement, including contracts for the statewide administrator of the program pursuant to section 36-2903, subsection ~~C~~ B, shall be as prescribed by this chapter. Ch. 344

H. Arizona industries for the blind is exempt from the provisions of this chapter for purchases of finished goods from members of national

industries for the blind and for purchases of raw materials for use in the manufacture of products for sale pursuant to section 41-1972. All other procurement shall be as prescribed by this chapter.

I. Arizona correctional industries is exempt from the provisions of this chapter for purchases of raw materials, components and supplies that are used in the manufacture or production of goods or services for sale entered into pursuant to section 41-1622. All other procurement shall be as prescribed by this chapter.

J. The state transportation board and the director of the department of transportation are exempt from the provisions of this chapter other than section 41-2586 for the procurement of construction or reconstruction, including engineering services, of transportation facilities or highway facilities AND ANY OTHER SERVICES THAT ARE DIRECTLY RELATED TO LAND TITLES, APPRAISALS, REAL PROPERTY ACQUISITION, RELOCATION, PROPERTY MANAGEMENT OR BUILDING FACILITY DESIGN AND CONSTRUCTION FOR HIGHWAY DEVELOPMENT AND THAT ARE REQUIRED PURSUANT TO TITLE 28, CHAPTER 20.

Ch. 100

K. The Arizona highways magazine is exempt from the provisions of this chapter for contracts for the production, promotion, distribution and sale of the magazine and related products and for contracts for sole source creative works entered into pursuant to section 28-7314, subsection A, paragraph 5. All other procurement shall be as prescribed by this chapter.

L. The secretary of state is exempt from the provisions of this chapter for contracts entered into pursuant to section 41-1012 to publish and sell the administrative code. All other procurement shall be as prescribed by this chapter.

M. The provisions of this chapter are not applicable to contracts for professional witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial proceeding in which this state is or may become a party or to contract for special investigative services for law enforcement purposes.

N. The head of any state governmental unit, in relation to any contract exempted by this section from the provisions of this chapter, has the same authority to adopt rules, procedures or policies as is delegated to the director pursuant to this chapter.

O. Agreements negotiated by legal counsel representing this state in settlement of litigation or threatened litigation are exempt from the provisions of this chapter.

P. The provisions of this chapter are not applicable to contracts entered into by the department of economic security with a provider licensed or certified by an agency of this state to provide child day care services or with a provider of family foster care pursuant to section 8-503 or 36-554, to contracts entered into with area agencies on aging created pursuant to the older Americans act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code ~~section~~ SECTIONS 3001 through 3058ee) or to contracts for services pursuant to title 36, chapter 29, article 2.

Chs. 100 and 344

Q. The department of health services may not require that persons with whom it contracts follow the provisions of this chapter for the purposes of subcontracts entered into for the provision of the following:

1. Mental health services pursuant to section 36-189, subsection B.

2. Services for the seriously mentally ill pursuant to title 36, chapter 5, article 10.

3. Drug and alcohol services pursuant to section 36-141.

4. Domestic violence services pursuant to title 36, chapter 30, article 1.

R. The department of health services is exempt from the provisions of this chapter for contracts for services of physicians at the Arizona state hospital.

S. Contracts for goods and services approved by the fund manager of the public safety personnel retirement system are exempt from the provisions of this chapter.

T. The Arizona department of agriculture is exempt from this chapter with respect to contracts for private labor and equipment to effect cotton or cotton stubble plow-up pursuant to rules adopted under title 3, chapter 2, article 1. On or before September 1 each year the director of the Arizona department of agriculture shall establish and announce costs for each acre of cotton or cotton stubble to be abated by private contractors.

U. The Arizona state parks board is exempt from the provisions of this chapter for purchases of guest supplies and items for resale such as food, linens, gift items, sundries, furniture, china, glassware and utensils for the facilities located in the Tonto natural bridge state park.

V. The Arizona state parks board is exempt from the provisions of this chapter for the purchase, production, promotion, distribution and sale of publications, souvenirs and sundry items obtained and produced for resale.

W. The Arizona state schools for the deaf and the blind are exempt from the provisions of this chapter when purchasing products through a cooperative that is organized and operates in accordance with state law if such products are not available on a statewide contract and are related to the operation of the schools or are products for which special discounts are offered for educational institutions.

X. Expenditures of monies in the morale, welfare and recreational fund established by section 26-153 are exempt from the provisions of this chapter.

Y. The state department of corrections is exempt from the provisions of this chapter for purchases of food commodities to be used in the preparation of meals for inmates AND FOR THE PURCHASE OF INMATE STORE GOODS. All other procurement shall be as prescribed by this chapter.

Ch. 18

Z. Notwithstanding section 41-2534, the director of the state department of corrections may contract with local medical providers in counties with a population of less than four hundred thousand persons according to the most recent United States decennial census for the following purposes:

1. To acquire hospital and professional medical services for inmates who are incarcerated in state department of corrections facilities that are located in those counties.

2. To ensure the availability of emergency medical services to inmates in all counties by contracting with the closest medical facility that offers emergency treatment and stabilization.

AA. The department of environmental quality is exempt from the provisions of this chapter for contracting for procurements relating to the

water quality assurance revolving fund program established pursuant to title 49, chapter 2, article 5. The department shall engage in a source selection process that is similar to the procedures prescribed by this chapter. The department may contract for remedial actions with a single selection process. The exclusive remedy for disputes or claims relating to contracting pursuant to this subsection is as prescribed by article 9 of this chapter and the rules adopted pursuant to that article. All other procurement by the department shall be as prescribed by this chapter.

BB. The motor vehicle division of the department of transportation is exempt from the provisions of this chapter for third party authorizations pursuant to title 28, chapter 13, only if all of the following conditions exist:

1. The division does not pay any public monies to an authorized third party.

2. Exclusivity is not granted to an authorized third party.

3. The director has complied with the requirements prescribed in title 28, chapter 13 in selecting an authorized third party.

CC. This section does not exempt third party authorizations pursuant to title 28, chapter 13 from any other applicable law.

DD. The state forester is exempt from the provisions of this chapter for purchases and contracts relating to wild land fire suppression and pre-positioning equipment resources and for other activities related to combating wild land fires and other unplanned risk activities, including fire, flood, earthquake, wind and hazardous material responses. All other procurement by the state forester shall be as prescribed by this chapter.

EXPLANATION OF BLEND
SECTION 41-2752

Laws 2001, Chapters 302 and 315

Laws 2001, Ch. 302, section 1 — Effective August 9

Laws 2001, Ch. 315, section 1 — Effective May 4

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 302 and Ch. 315 text changes to section 41-2752 are blended in the form shown on the following pages.

BLEND OF SECTION 41-2752
Laws 2001, Chapters 302 and 315

41-2752. State competition with private enterprise prohibited; exceptions

A. A state agency shall not engage in the manufacturing, processing, sale, offering for sale, rental, leasing, delivery, dispensing, distributing or advertising of goods or services to the public ~~which~~ THAT are also offered by private enterprise unless specifically authorized by law other than administrative law and executive orders. Ch. 315

B. A state agency shall not offer or provide goods or services to the public for or through another state agency or a local agency, including by intergovernmental or interagency agreement, in violation of this section or section 41-2753. Chs. 302 and 315

C. ~~Except as otherwise provided in section 41-2754, subsection I,~~ The restrictions on activities ~~which~~ THAT compete with private enterprise contained in this section do not apply to: Ch. 315

1. The development, operation and management of state parks, historical monuments and hiking or equestrian trails.

2. Correctional industries established and operated by the state department of corrections providing the prices charged for products sold by the correctional industries are not less than the actual cost of producing and marketing the product plus a reasonable allowance for overhead and administrative costs.

3. The Arizona office of tourism.

4. The Arizona highways magazine, operated by the department of transportation.

5. Printing and distributing information to the public if the agency is otherwise authorized to do so, and printing or copying public records or other material relating to the public agency's public business and recovering through fees and charges the costs of such printing, copying and distribution.

6. The department of public safety.

7. The construction, maintenance and operation of state transportation facilities.

8. The development, distribution, maintenance, support, licensing, leasing or sale of computer software by the department of transportation.

9. Agreements executed by the Arizona health care cost containment system administration with other states to design, develop, install and operate information technology systems and related services or other administrative services pursuant to section 36-2925.

10. AGREEMENTS EXECUTED BY THE DEPARTMENT OF ECONOMIC SECURITY WITH OTHER STATES TO DESIGN, DEVELOP, INSTALL AND OPERATE SUPPORT COLLECTION TECHNOLOGY SYSTEMS AND RELATED SERVICES. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, MONIES RECEIVED PURSUANT TO THIS PARAGRAPH IN THE PUBLIC ASSISTANCE COLLECTIONS FUND ESTABLISHED BY SECTION 46-295. Ch. 315

11. CONTRACTS BETWEEN THE DEPARTMENT OF JUVENILE CORRECTIONS AND THIS STATE, A POLITICAL SUBDIVISION OF THIS STATE OR A PRIVATE ENTITY IN ORDER TO PROVIDE EMPLOYMENT OR VOCATIONAL EDUCATIONAL EXPERIENCE.

Ch. 302

Ch. 315

D. The restrictions on activities ~~which~~ THAT compete with private enterprise contained in subsection A of this section do not apply to community colleges and universities under the jurisdiction of a state governing board.

EXPLANATION OF BLEND
SECTION 41-2814

Laws 2001, Chapters 225 and 350

Laws 2001, Ch. 225, section 11 — Effective August 9

Laws 2001, Ch. 350, section 11 — Effective May 7

Explanation

Since these two enactments are identical, the Laws 2001, Ch. 225 and Ch. 350 text changes to section 41-2814 are blended in the form shown on the following pages.

BLEND OF SECTION 41-2814
Laws 2001, Chapters 225 and 350

41-2814. Fingerprinting personnel; exception; violation; classification; definition

A. All employees of the department and all contract service providers that provide services primarily on department premises shall be fingerprinted. These individuals shall submit fingerprints and the form prescribed in subsection F of this section within seven days after the date of employment. Employment with the department is conditioned on the results of the fingerprint check. Fingerprint checks shall be conducted pursuant to section 41-1750, subsection G, paragraph 1.

Chs. 225 and 350

B. Except as provided in subsection A of this section, ~~an~~ A PAID OR UNPAID employee of a licensee or contract provider ~~who is paid or unpaid and~~ who has direct contact with committed youth shall have a valid class one or class two fingerprint clearance card issued pursuant to chapter 12, article 3.1 of this title or shall apply for a class one or class two fingerprint clearance card within seven days of beginning employment.

C. A service contract or license with any contract provider or licensee that involves the employment of persons who have direct contact with committed youth shall provide that the contract or license may be canceled or terminated immediately if a person certifies pursuant to subsection F of this section that the person is awaiting trial on or has been convicted of any of the offenses listed in subsection F of this section in this jurisdiction or acts committed in another jurisdiction that would be offenses in this jurisdiction or if the person does not possess or is denied issuance of a valid fingerprint clearance card.

D. A contract provider or licensee may avoid cancellation or termination of the contract or license under subsection C of this section if a person who does not possess or has been denied issuance of a valid fingerprint clearance card or who certifies pursuant to subsection F of this section that the person has been convicted of or is awaiting trial on any of the offenses listed in subsection F, paragraphs 1, 2, 3, 6, 7, 9, 15 through 18 and 21 of this section is immediately prohibited from employment or service with the contract provider or licensee in any capacity requiring or allowing direct contact with committed youth.

E. A contract provider or licensee may avoid cancellation or termination of the contract or license under subsection C of this section if a person who does not possess or has been denied issuance of a valid fingerprint clearance card or who certifies pursuant to subsection F of this section that the person has been convicted of or is awaiting trial on any of the offenses listed in subsection F, paragraphs 4, 5, 8, 10 through 14, 19, 20, 22 and 23 of this section is immediately prohibited from employment or service with the contract provider or licensee in any capacity requiring or allowing direct contact with committed youth unless the employee is granted a good cause exception pursuant to section 41-619.55.

F. Personnel who are employed by the department and contract personnel who have direct contact with committed youth shall certify on forms provided by the department and notarized whether they are awaiting trial on or have ever been convicted of or committed any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:

1. Sexual abuse of a minor.
2. Incest.
3. First or second degree murder.
4. Kidnapping.
5. Arson.
6. Sexual assault.
7. Sexual exploitation of a minor.
8. Felony offenses involving contributing to the delinquency of a minor.
9. Commercial sexual exploitation of a minor.
10. Felony offenses involving sale, distribution or transportation of, offer to sell, transport or distribute or conspiracy to sell, transport or distribute marijuana, dangerous drugs or narcotic drugs.
11. Felony offenses involving the possession or use of marijuana, dangerous drugs or narcotic drugs.
12. Burglary.
13. Aggravated or armed robbery.
14. Robbery.
15. A dangerous crime against children as defined in section 13-604.01.
16. Child abuse.
17. Sexual conduct with a minor.
18. Molestation of a child.
19. Manslaughter.
20. Assault or aggravated assault.
21. Exploitation of minors involving drug offenses.
22. A violation of section 28-1381, 28-1382 or 28-1383.
23. Offenses involving domestic violence.

G. The department shall make documented, good faith efforts to contact previous employers of personnel to obtain information or recommendations that may be relevant to an individual's fitness for employment.

H. Hospital employees, licensed medical personnel, staff and volunteers who provide services to juveniles in a health care facility located outside the secure care facility and who are under the direct visual supervision as is medically reasonable of the department's employees or the department's contracted security employees are exempt from the ~~fingerprinting~~ requirements of this section.

Chs. 225 and 350

I. The department of juvenile corrections shall notify the department of public safety if the department of juvenile corrections receives credible evidence that a person who possesses a valid class one or class two fingerprint clearance card either:

1. Is arrested for or charged with an offense listed in section 41-1758.03, subsection B or F.
2. Falsified information on the form required by subsection F of this section.

J. A person who makes a false statement, representation or certification in an application for employment with the department is guilty of a class 3 misdemeanor.

K. For the purposes of this section, "employee" means paid and unpaid personnel who have direct contact with committed youth.

EXPLANATION OF BLEND
SECTION 42-2003

Laws 2001, Chapters 115, 163 and 261

Laws 2001, Ch. 115, section 7	Effective August 9
Laws 2001, Ch. 163, section 2	Effective August 9
Laws 2001, Ch. 261, section 2	Effective August 9

Explanation

Since these three enactments are not incompatible, the Laws 2001, Ch. 115, Ch. 163 and Ch. 261 text changes to section 42-2003 are blended in the form shown on the following pages.

In the Ch. 163 version of section 42-2003, subsection A, paragraph 2 struck the old period, added a comma and added a new period at the end of the new language. The Ch. 261 version added a comma and kept the old period. Since this would not produce a substantive change, the blend version reflects the Ch. 261 version.

The Laws 2001, Ch. 115 and Ch. 261 versions of section 42-2003 had the stricken words and new words in a different order in subsection B, paragraph 9 than the Ch. 163 version. Since this would not produce a substantive change, the blend version reflects the Ch. 115 and Ch. 261 versions.

BLEND OF SECTION 42-2003
Laws 2001, Chapters 115, 163 and 261

42-2003. Authorized disclosure of confidential information

A. Confidential information relating to:

1. A taxpayer may be disclosed to the taxpayer, its successor in interest or a designee of the taxpayer who is authorized in writing by the taxpayer. A PRINCIPAL CORPORATE OFFICER OF A PARENT CORPORATION MAY EXECUTE A WRITTEN AUTHORIZATION FOR A CONTROLLED SUBSIDIARY.

Chs. 163 and 261

2. A corporate taxpayer may be disclosed to any principal officer ~~of the corporation.~~ , ANY PERSON DESIGNATED BY A PRINCIPAL OFFICER OR ANY PERSON DESIGNATED IN A RESOLUTION BY THE CORPORATE BOARD OF DIRECTORS OR OTHER SIMILAR GOVERNING BODY.

3. A partnership may be disclosed to any partner of the partnership. This exception does not include disclosure of confidential information of a particular partner unless otherwise authorized.

4. An estate may be disclosed to the personal representative of the estate and to any heir, next of kin or beneficiary under the will of the decedent if the department finds that the heir, next of kin or beneficiary has a material interest which will be affected by the confidential information.

5. A trust may be disclosed to the trustee or trustees, jointly or separately, and to the grantor or any beneficiary of the trust if the department finds that the grantor or beneficiary has a material interest which will be affected by the confidential information.

6. Any taxpayer may be disclosed if the taxpayer has waived any rights to confidentiality either in writing or on the record in any administrative or judicial proceeding.

7. A claimant may be disclosed to the claimant, its successor in interest or a designee of the claimant pursuant to written authorization by the claimant.

B. Confidential information may be disclosed to:

1. Any employee of the department whose official duties involve tax or unclaimed property administration.

2. The office of the attorney general solely for its use in preparation for, or in an investigation which may result in, any proceeding involving tax or unclaimed property administration before the department or any other agency or board of this state, or before any grand jury or any state or federal court.

3. The department of liquor licenses and control for its use in determining whether a spirituous liquor licensee has paid all transaction privilege taxes and affiliated excise taxes incurred as a result of the sale of spirituous liquor at the licensed establishment and imposed on the licensed establishments by this state and its political subdivisions.

4. Other state tax or unclaimed property officials of this state whose official duties require the disclosure for proper tax or unclaimed property administration purposes if the information is sought in connection with an

investigation or any other proceeding conducted by the official. Any disclosure is limited to information of a taxpayer or claimant who is being investigated or who is a party to a proceeding conducted by the official.

5. The following agencies, officials and organizations, if they grant substantially similar privileges to the department for the type of information being sought, pursuant to statute and a written agreement between the department and the foreign country, agency, state, Indian tribe or organization:

(a) The United States internal revenue service, United States bureau of alcohol, tobacco and firearms, United States drug enforcement agency and federal bureau of investigation.

(b) A state tax or unclaimed property official of another state.

(c) An organization of states that operates an information exchange for tax administration purposes.

(d) An agency, official or organization of a foreign country with responsibilities that are comparable to those listed in subdivision (a), (b) or (c) of this paragraph.

(e) An agency, official or organization of an Indian tribal government with responsibilities comparable to the responsibilities of the agencies, officials or organizations identified in subdivision (a), (b) or (c) of this paragraph.

6. The auditor general, in connection with any audit of the department subject to the restrictions in section 42-2002, subsection C.

7. Any person to the extent necessary for effective tax or unclaimed property administration in connection with:

Ch. 115 — (a) The processing, storage, transmission, DESTRUCTION and reproduction of the information.

(b) The programming, maintenance, repair, testing and procurement of equipment for purposes of tax administration.

8. The office of administrative hearings relating to taxes administered by the department pursuant to section 42-1101, but the department shall not disclose any confidential information:

(a) Regarding income tax, withholding tax or estate tax.

(b) On any tax issue relating to information associated with the reporting of income tax, withholding tax or estate tax.

9. The United States treasury inspector general for tax administration for the purpose of reporting a violation of internal revenue code section ~~7213(a)~~ 7213A (26 United States Code section ~~7213a~~ 7213A), unauthorized inspection of returns or return information.

Chs. 115, 163 and 261 —

Ch. 261 — 10. THE FINANCIAL MANAGEMENT SERVICE OF THE UNITED STATES TREASURY DEPARTMENT FOR USE IN THE TREASURY OFFSET PROGRAM.

C. Confidential information may be disclosed in any state or federal judicial or administrative proceeding pertaining to tax or unclaimed property administration if the taxpayer or claimant is a party to the proceeding.

D. Identity information may be disclosed for purposes of notifying:

1. Persons entitled to tax refunds if the department is unable to locate the persons after reasonable effort.

2. Owners of unclaimed property pursuant to section 44-309.

E. The department, upon the request of any person, shall provide the names and addresses of bingo licensees as defined in section 5-401 or verify whether or not a person has a privilege license and number or withholding license and number.

F. A department employee, in connection with the official duties relating to any audit, collection activity or civil or criminal investigation, may disclose return information to the extent that disclosure is necessary to obtain information which is not otherwise reasonably available. These official duties include the correct determination of and liability for tax, the amount to be collected or the enforcement of other state tax revenue laws.

G. If an organization is exempt from this state's income tax as provided in section 43-1201 for any taxable year, the name and address of the organization and the application filed by the organization upon which the department made its determination for exemption together with any papers submitted in support of the application and any letter or document issued by the department concerning the application are open to public inspection.

H. Confidential information relating to transaction privilege tax, use tax and rental occupancy tax may be disclosed to any county, city or town tax official if the information relates to a taxpayer who is or may be taxable by the county, city or town. Any taxpayer information released by the department to the county, city or town:

1. May only be used for internal purposes.

2. May not be disclosed to the public in any manner that does not comply with confidentiality standards established by the department. The county, city or town shall agree in writing with the department that any release of confidential information that violates the confidentiality standards adopted by the department will result in the immediate suspension of any rights of the county, city or town to receive taxpayer information under this subsection.

I. The department may disclose statistical information gathered from confidential information if it does not disclose confidential information attributable to any one taxpayer or claimant of unclaimed property. In order to comply with the requirements of section 42-5029, subsection A, paragraph 3, the department may disclose to the state treasurer statistical information gathered from confidential information, even if it discloses confidential information attributable to a taxpayer.

J. THE DEPARTMENT MAY DISCLOSE THE AGGREGATE AMOUNTS OF ANY TAX CREDIT, TAX DEDUCTION OR TAX EXEMPTION ENACTED AFTER JANUARY 1, 1994. INFORMATION SUBJECT TO DISCLOSURE UNDER THIS SUBSECTION SHALL NOT BE DISCLOSED IF A TAXPAYER DEMONSTRATES TO THE DEPARTMENT THAT SUCH INFORMATION WOULD GIVE AN UNFAIR ADVANTAGE TO COMPETITORS.

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~~J.~~ K. Except as provided in section 42-2002, subsection B, confidential information, described in section 42-2001, paragraph 3, subdivision (a), item (iii), may be disclosed to law enforcement agencies for law enforcement purposes.

~~K.~~ L. The department may disclose and publish the names of corporations, the dividends of which qualify for the subtraction provided by section 43-1128.

~~L.~~ M. The department may provide transaction privilege tax license information to property tax officials in a county for the purpose of identification and verification of the tax status of commercial property.

~~M.~~ N. The department may provide transaction privilege tax, luxury tax, use tax, property tax and severance tax information to the ombudsman-citizens aide pursuant to title 41, chapter 8, article 5.

~~N.~~ O. Except as provided in section 42-2002, subsection C, a court may order the department to disclose confidential information pertaining to a party to an action. An order shall be made only upon a showing of good cause and that the party seeking the information has made demand upon the taxpayer or claimant for the information.

~~O.~~ P. This section does not prohibit the disclosure by the department of any information or documents submitted to the department by a bingo licensee. Before disclosing the information the department shall obtain the name and address of the person requesting the information.

~~P.~~ Q. If the department is required or permitted to disclose confidential information, it may charge the person or agency requesting the information for the reasonable cost of its services.

~~Q.~~ R. Except as provided in section 42-2002, subsection C, the department of revenue shall release confidential information as requested by the department of economic security pursuant to section 42-1122 or 46-291. Information disclosed under this subsection is limited to the same type of information that the United States internal revenue service is authorized to disclose under section 6103(l)(6) of the internal revenue code.

~~R.~~ S. To comply with the requirements of section 42-5031, the department may disclose to the state treasurer, to the county stadium district board of directors and to any city or town tax official that is part of the county stadium district confidential information attributable to a taxpayer's business activity conducted in the county stadium district.

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T. THE DEPARTMENT SHALL RELEASE CONFIDENTIAL INFORMATION AS REQUESTED BY THE ATTORNEY GENERAL FOR PURPOSES OF DETERMINING COMPLIANCE WITH SECTION 44-7101. INFORMATION DISCLOSED UNDER THIS SUBSECTION IS LIMITED TO LUXURY TAX INFORMATION RELATING TO TOBACCO MANUFACTURERS, DISTRIBUTORS, WHOLESALERS AND RETAILERS AND INFORMATION COLLECTED BY THE DEPARTMENT PURSUANT TO SECTION 44-7101(2)(j).

EXPLANATION OF BLEND
SECTION 42-5061

Laws 2001, Chapters 115, 137, 287 and 314

Laws 2001, Ch. 115, section 9	Effective August 9 (Retroactive to July 1, 2000)
Laws 2001, Ch. 137, section 1	Effective August 9 (Retroactive to June 8, 1994)
Laws 2001, Ch. 287, section 89	Effective August 9
Laws 2001, Ch. 314, section 1	Effective August 9 (Retroactive to January 1, 1989)

Explanation

Since these four enactments are not incompatible, the Laws 2001, Ch. 115, Ch. 137, Ch. 287 and Ch. 314 text changes to section 42-5061 are blended in the form shown on the following pages.

BLEND OF SECTION 42-5061
Laws 2001, Chapters 115, 137, 287 and 314

42-5061. Retail classification; definitions

A. The retail classification is comprised of the business of selling tangible personal property at retail. The tax base for the retail classification is the gross proceeds of sales or gross income derived from the business. The tax imposed on the retail classification does not apply to the gross proceeds of sales or gross income from:

1. Professional or personal service occupations or businesses which involve sales or transfers of tangible personal property only as inconsequential elements.

2. Services rendered in addition to selling tangible personal property at retail.

3. Sales of warranty or service contracts. The storage, use or consumption of tangible personal property provided under the conditions of such contracts is subject to tax under section 42-5156.

4. Sales of tangible personal property by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

5. Sales to persons engaged in business classified under the restaurant classification of articles used by human beings for food, drink or condiment, whether simple, mixed or compounded.

6. Business activity which is properly included in any other business classification which is taxable under article 1 of this chapter.

7. The sale of stocks and bonds.

8. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

9. Prosthetic appliances as defined in section 23-501 prescribed or recommended by a health professional licensed pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

10. Insulin, insulin syringes and glucose test strips.

11. Prescription eyeglasses or contact lenses.

12. Hearing aids as defined in section 36-1901.

13. Durable medical equipment which has a federal health care financing administration common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

14. Sales to nonresidents of this state for use outside this state if the vendor ships or delivers the tangible personal property out of this state.

15. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.

16. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).

17. Textbooks by any bookstore that are required by any state university or community college.

18. Food and drink to a person who is engaged in business which is classified under the restaurant classification and which provides such food and drink without monetary charge to its employees for their own consumption on the premises during the employees' hours of employment.

19. Articles of food, drink or condiment and accessory tangible personal property to a school district if such articles and accessory tangible personal property are to be prepared and served to persons for consumption on the premises of a public school within the district during school hours.

20. Lottery tickets or shares pursuant to title 5, chapter 5, article 1.

21. The sale of precious metal bullion and monetized bullion to the ultimate consumer, but the sale of coins or other forms of money for manufacture into jewelry or works of art is subject to the tax. In this paragraph:

(a) "Monetized bullion" means coins and other forms of money which are manufactured from gold, silver or other metals and which have been or are used as a medium of exchange in this or another state, the United States or a foreign nation.

(b) "Precious metal bullion" means precious metal, including gold, silver, platinum, rhodium and palladium, which has been smelted or refined so that its value depends on its contents and not on its form.

22. Motor vehicle fuel and use fuel which are subject to a tax imposed under title 28, chapter 16, article 1 ~~or 2~~, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739, sales of aviation fuel which are subject to the tax imposed under section 28-8344 and sales of jet fuel which are subject to the tax imposed under article 8 of this chapter.

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23. Tangible personal property sold to a person engaged in the business of leasing or renting such property under the personal property rental classification if such property is to be leased or rented by such person.

24. Tangible personal property sold in interstate or foreign commerce if prohibited from being so taxed by the Constitution of the United States or the constitution of this state.

25. Tangible personal property sold to:

(a) A qualifying hospital as defined in section 42-5001.

(b) A qualifying health care organization as defined in section 42-5001 if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(c) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind, visually impaired and multihandicapped children from the time of birth to age twenty-one.

(d) A qualifying community health center as defined in section 42-5001.

(e) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(f) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

26. Magazines or other periodicals or other publications by this state to encourage tourist travel.

27. Tangible personal property sold to a person that is subject to tax under this article by reason of being engaged in business classified under the prime contracting classification under section 42-5075, or to a subcontractor working under the control of a prime contractor that is subject to tax under article 1 of this chapter, if the property so sold is any of the following:

(a) Incorporated or fabricated by the person into any real property, structure, project, development or improvement as part of the business.

(b) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

(c) Incorporated or fabricated by the person into any lake facility development in a commercial enhancement reuse district under conditions prescribed for the deduction allowed by section 42-5075, subsection B, paragraph 8.

28. The sale of a motor vehicle to:

(a) A nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by article 1 of this chapter and if the nonresident has secured a special thirty-day nonresident registration of the vehicle by applying according to section 28-2154.

(b) An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe.

29. Tangible personal property purchased or leased in this state by a nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively for training, job placement or rehabilitation programs or testing for mentally or physically handicapped persons.

30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)

of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

31. Sales of commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Sales of new semitrailers, as defined in section 28-101, manufactured in Arizona, or new parts manufactured in Arizona for semitrailers sold by the manufacturer to a person who holds an interstate commerce commission license for use in interstate commerce.

34. Sales of seeds, seedlings, roots, bulbs, cuttings and other propagative material to persons who use those items to commercially produce agricultural, horticultural, viticultural or floricultural crops in this state.

35. Machinery, equipment, technology or related supplies that are only useful to assist a person who is physically disabled as defined in section 46-191, has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

36. Sales of tangible personal property that is shipped or delivered directly to a destination outside the United States for use in that foreign country.

37. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

38. Paper machine clothing, such as forming fabrics and dryer felts, sold to a paper manufacturer and directly used or consumed in paper manufacturing.

39. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for fifteen full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

40. Sales of liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research

and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any deduction for such chemicals that is otherwise provided by this section. For purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

41. Through December 31, 1994, personal property liquidation transactions, conducted by a personal property liquidator. From and after December 31, 1994, personal property liquidation transactions shall be taxable under this section provided that nothing in this subsection shall be construed to authorize the taxation of casual activities or transactions under this chapter. In this paragraph:

(a) "Personal property liquidation transaction" means a sale of personal property made by a personal property liquidator acting solely on behalf of the owner of the personal property sold at the dwelling of the owner or upon the death of any owner, on behalf of the surviving spouse, if any, any devisee or heir or the personal representative of the estate of the deceased, if one has been appointed.

(b) "Personal property liquidator" means a person who is retained to conduct a sale in a personal property liquidation transaction.

42. Sales of food, drink and condiment for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

43. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

44. Livestock and poultry feed, salts, vitamins and other additives for livestock or poultry consumption that are sold to persons who are engaged in producing livestock, poultry, or livestock or poultry products or who are engaged in feeding livestock or poultry commercially. For purposes of this paragraph, "poultry" includes ratites.

45. Sales of implants used as growth promotants and injectable medicines, not already exempt under paragraph 8 of this subsection, for livestock or poultry owned by or in possession of persons who are engaged in producing livestock, poultry, or livestock or poultry products or who are engaged in feeding livestock or poultry commercially. For purposes of this paragraph, "poultry" includes ratites.

46. Sales of motor vehicles at auction to nonresidents of this state for use outside this state if the vehicles are shipped or delivered out of this state, regardless of where title to the motor vehicles passes or its free on board point.

47. Tangible personal property sold to a person engaged in business and subject to tax under the transient lodging classification if the tangible

Ch. 137 personal property is a personal hygiene item OR ARTICLES USED BY HUMAN BEINGS FOR FOOD, DRINK OR CONDIMENT, EXCEPT ALCOHOLIC BEVERAGES, which ~~is~~ ARE furnished WITHOUT ADDITIONAL CHARGE to and intended to be consumed by the transient during the transient's occupancy.

48. Sales of alternative fuel, as defined in section 1-215, to a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

49. Sales of materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

50. Tangible personal property sold to a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

51. Sales of alternative fuel vehicles, as defined in section 43-1086, if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

52. Sales of any spirituous, vinous or malt liquor by a person that is licensed in this state as a wholesaler by the department of liquor licenses and control pursuant to title 4, chapter 2, article 1.

53. Sales of tangible personal property to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

Ch. 314 54. SALES OF TANGIBLE PERSONAL PROPERTY BY A NONPROFIT ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER SECTION 501(c)(6) OF THE INTERNAL REVENUE CODE IF THE ORGANIZATION PRODUCES, ORGANIZES OR PROMOTES CULTURAL OR CIVIC RELATED FESTIVALS OR EVENTS AND NO PART OF THE ORGANIZATION'S NET EARNINGS INURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL.

B. In addition to the deductions from the tax base prescribed by subsection A of this section, the gross proceeds of sales or gross income derived from sales of the following categories of tangible personal property shall be deducted from the tax base:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media which are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(b) Any foreign government for use by such government outside of this state.

(c) Persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state. This subdivision also applies to corporations that are not incorporated in this state, regardless of maintaining a place of business in this state, if the principal corporate office is located outside this state and the property will not be used in this state other than in removing the property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9. Railroad rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles which are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and which are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

12. Groundwater measuring devices required under section 45-604.

13. New machinery and equipment consisting of tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk ~~and for producing livestock~~, and machinery and equipment necessary for cooling milk and ~~producing~~ livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. In this paragraph: Ch. 115

(a) "New machinery and equipment" means machinery and equipment which have never been sold at retail except pursuant to leases or rentals which do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. In this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Machinery and equipment that are purchased by or on behalf of the owners of a soundstage complex and primarily used for motion picture, multimedia or interactive video production in the complex. This paragraph applies only if the initial construction of the soundstage complex begins after June 30, 1996 and before January 1, 2002 and the machinery and equipment are purchased before the expiration of five years after the start of initial construction. For purposes of this paragraph:

(a) "Motion picture, multimedia or interactive video production" includes products for theatrical and television release, educational presentations, electronic retailing, documentaries, music videos, industrial films, CD-ROM, video game production, commercial advertising and television episode production and other genres that are introduced through developing technology.

(b) "Soundstage complex" means a facility of multiple stages including production offices, construction shops and related areas, prop and costume shops, storage areas, parking for production vehicles and areas that are

leased to businesses that complement the production needs and orientation of the overall facility.

16. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations parts 25 and 100.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations parts 25 and 100.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

17. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

18. Machinery and equipment used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

19. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules

or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

20. Machinery and equipment that are sold to a person engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state and that are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

21. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

C. The deductions provided by subsection B of this section do not include sales of:

1. Expendable materials. For purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 16 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

D. In computing the tax base, gross proceeds of sales or gross income from retail sales of automobiles does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4001.

E. In addition to the deductions from the tax base prescribed by subsection A of this section, there shall be deducted from the tax base the gross proceeds of sales or gross income derived from sales of machinery, equipment, materials and other tangible personal property used directly and

predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02. This subsection applies for ten full consecutive calendar or fiscal years after the start of initial construction.

F. In computing the tax base, gross proceeds of sales or gross income from retail sales of heavy trucks and trailers does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4051.

G. In computing the tax base, gross proceeds of sales or gross income from the sale of use fuel, as defined in section ~~28-5701~~ 28-5601, does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4091.

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H. If a person is engaged in an occupation or business to which subsection A of this section applies, the person's books shall be kept so as to show separately the gross proceeds of sales of tangible personal property and the gross income from sales of services, and if not so kept the tax shall be imposed on the total of the person's gross proceeds of sales of tangible personal property and gross income from services.

I. If a person is engaged in the business of selling tangible personal property at both wholesale and retail, the tax under this section applies only to the gross proceeds of the sales made other than at wholesale if the person's books are kept so as to show separately the gross proceeds of sales of each class, and if the books are not so kept, the tax under this section applies to the gross proceeds of every sale so made.

J. A person who engages in manufacturing, baling, crating, boxing, barreling, canning, bottling, sacking, preserving, processing or otherwise preparing for sale or commercial use any livestock, agricultural or horticultural product or any other product, article, substance or commodity and who sells the product of such business at retail in this state is deemed, as to such sales, to be engaged in business classified under the retail classification. This subsection does not apply to businesses classified under the:

1. Transporting classification.
2. Utility classification.
3. Telecommunications classification.
4. Pipeline classification.
5. Private car line classification.
6. Publication classification.
7. Job printing classification.
8. Prime contracting classification.
9. Owner builder sales classification.
10. Restaurant classification.

K. The gross proceeds of sales or gross income derived from the following shall be deducted from the tax base for the retail classification:

1. Sales made directly to the United States government or its departments or agencies by a manufacturer, modifier, assembler or repairer.

2. Sales made directly to a manufacturer, modifier, assembler or repairer if such sales are of any ingredient or component part of products

sold directly to the United States government or its departments or agencies by the manufacturer, modifier, assembler or repairer.

3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.

4. Sales of overhead materials or other tangible personal property to a manufacturer, modifier, assembler or repairer if the gross proceeds of sales or gross income derived from the property by the manufacturer, modifier, assembler or repairer will be exempt under paragraph 3 of this subsection.

L. There shall be deducted from the tax base fifty per cent of the gross proceeds or gross income from any sale of tangible personal property made directly to the United States government or its departments or agencies, which is not deducted under subsection K of this section.

M. The department shall require every person claiming a deduction provided by subsection K or L of this section to file on forms prescribed by the department at such times as the department directs a sworn statement disclosing the name of the purchaser and the exact amount of sales on which the exclusion or deduction is claimed.

N. In computing the tax base, gross proceeds of sales or gross income does not include:

1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

2. The waste tire disposal fee imposed pursuant to section 44-1302.

O. There shall be deducted from the tax base the amount received from sales of solar energy devices, but the deduction shall not exceed five thousand dollars for each solar energy device. Before deducting any amount under this subsection, the retailer shall register with the department as a solar energy retailer. By registering, the retailer acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

P. In computing the tax base in the case of the sale or transfer of wireless telecommunications equipment as an inducement to a customer to enter into or continue a contract for telecommunications services that are taxable under section 42-5064, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

Q. For the purposes of this section, a sale of wireless telecommunications equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064 is considered to be a sale for resale in the regular course of business.

R. Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization

of a prepaid card or authorization number, are subject to tax under this section.

S. For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

T. If a seller is entitled to a deduction pursuant to subsection B, paragraph 16, subdivision (b) of this section, the department may require the purchaser to establish that the requirements of subsection B, paragraph 16, subdivision (b) of this section have been satisfied. If the purchaser cannot establish that the requirements of subsection B, paragraph 16, subdivision (b) of this section have been satisfied, the purchaser is liable in an amount equal to any tax, penalty and interest which the seller would have been required to pay under article 1 of this chapter if the seller had not made a deduction pursuant to subsection B, paragraph 16, subdivision (b) of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and related to the tangible personal property purchased. The amount shall be treated as transaction privilege tax to the purchaser and as tax revenues collected from the seller to designate the distribution base pursuant to section 42-5029.

U. For purposes of section 42-5032.01, the department shall separately account for revenues collected under the retail classification from businesses selling tangible personal property at retail:

1. On the premises of a multipurpose facility that is owned, leased or operated by the tourism and sports authority pursuant to title 5, chapter 8.

2. At professional football contests that are held in a stadium located on the campus of an institution under the jurisdiction of the Arizona board of regents.

V. For the purposes of this section:

1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

3. "Selling at retail" means a sale for any purpose other than for resale in the regular course of business in the form of tangible personal property, but transfer of possession, lease and rental as used in the definition of sale mean only such transactions as are found on investigation to be in lieu of sales as defined without the words lease or rental.

W. For purposes of subsection K of this section:

1. "Assembler" means a person who unites or combines products, wares or articles of manufacture so as to produce a change in form or substance without changing or altering the component parts.

2. "Manufacturer" means a person who is principally engaged in the fabrication, production or manufacture of products, wares or articles for use from raw or prepared materials, imparting to those materials new forms, qualities, properties and combinations.

3. "Modifier" means a person who reworks, changes or adds to products, wares or articles of manufacture.

4. "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from which would otherwise be included in the retail classification, and which are used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based upon generally accepted accounting principles and consistent with government contract accounting standards.

5. "Repairer" means a person who restores or renews products, wares or articles of manufacture.

6. "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

EXPLANATION OF BLEND
SECTION 42-5071

Laws 2001, Chapters 36 and 287

Laws 2001, Ch. 36, section 1 — Effective August 9

Laws 2001, Ch. 287, section 90 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 36 and Ch. 287 text changes to section 42-5071 are blended in the form shown on the following pages.

BLEND OF SECTION 42-5071
Laws 2001, Chapters 36 and 287

42-5071. Personal property rental classification

A. The personal property rental classification is comprised of the business of leasing or renting tangible personal property for a consideration. The tax does not apply to:

1. Leasing or renting films, tapes or slides used by theaters or movies, which are engaged in business under the amusement classification, or used by television stations or radio stations.

2. Activities engaged in by the Arizona exposition and state fair board or county fair commissions in connection with events sponsored by such entities.

3. Leasing or renting tangible personal property by a parent corporation to a subsidiary corporation or by a subsidiary corporation to another subsidiary of the same parent corporation if taxes were paid under this chapter on the gross proceeds or gross income accruing from the initial sale of the tangible personal property. For purposes of this paragraph, "subsidiary" means a corporation of which at least eighty per cent of the voting shares are owned by the parent corporation.

4. Operating coin operated washing, drying and dry cleaning machines or coin operated car washing machines at establishments for the use of such machines.

5. Leasing or renting semitrailers manufactured in Arizona, as defined in section 28-101, to a person who holds a United States department of transportation number for use in interstate commerce.

6. Leasing or renting tangible personal property for incorporation into or comprising any part of a qualified environmental technology facility as described in section 41-1514.02. This paragraph shall apply for ten full consecutive calendar or fiscal years following the initial lease or rental by each qualified environmental technology manufacturer, producer or processor.

7. Leasing or renting aircraft, flight simulators or similar training equipment to students or staff by nonprofit, accredited educational
Ch. 287 — institutions that offer associate or ~~bachelor's~~ BACCALAUREATE degrees in aviation or aerospace related fields.

Ch. 36 — 8. LEASING OR RENTING PHOTOGRAPHS, TRANSPARENCIES OR OTHER CREATIVE WORKS USED BY THIS STATE ON INTERNET WEB SITES, IN MAGAZINES OR IN OTHER PUBLICATIONS THAT ENCOURAGE TOURISM.

B. The tax base for the personal property rental classification is the gross proceeds of sales or gross income derived from the business, but the gross proceeds of sales or gross income derived from the following shall be deducted from the tax base:

1. Reimbursements by the lessee to the lessor of a motor vehicle for payments by the lessor of the applicable fees and taxes imposed by sections 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15, article

2 and article IX, section 11, Constitution of Arizona, to the extent such amounts are separately identified as such fees and taxes and are billed to the lessee.

2. Leases or rentals of tangible personal property which, if it had been purchased instead of leased or rented by the lessee, would have been exempt under:

(a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13 or 25.

(b) Section 42-5061, subsection B, except that a lease or rental of new machinery or equipment is not exempt pursuant to section 42-5061, subsection B, paragraph 13 if the lease is for less than two years.

(c) Section 42-5061, subsection K, paragraph 1.

(d) Section 42-5061, subsection O.

(e) Section 42-5061, subsection A, paragraph 51.

3. Motor vehicle fuel and use fuel that are subject to a tax imposed
Ch. 287 — under title 28, chapter 16, article 1 ~~or 2~~, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739 and sales of aviation fuel that are subject to the tax imposed under section 28-8344.

4. Leasing or renting a motor vehicle subject to and upon which the fee has been paid under title 28, chapter 16, article 4.

C. Sales of tangible personal property to be leased or rented to a person engaged in a business classified under the personal property rental classification are deemed to be resale sales.

D. In computing the tax base, the gross proceeds of sales or gross income from the lease or rental of a motor vehicle does not include any amount attributable to the car rental surcharge under section 28-5810 or 48-4234.

E. Until December 31, 1988, leasing or renting animals for recreational purposes is exempt from the tax imposed by this section. Beginning January 1, 1989, the gross proceeds or gross income from leasing or renting animals for recreational purposes is subject to taxation under this section. Tax liabilities, penalties and interest paid for taxable periods before January 1, 1989 shall not be refunded unless the taxpayer requesting the refund provides proof satisfactory to the department that the monies paid as taxes will be returned to the customer.

EXPLANATION OF BLEND
SECTION 42-5075 (as amended by Laws 2000, Ch. 33, section 1, Ch. 63, section 7, Ch. 214, section 1 and Ch. 359, section 1)

Laws 2001, Chapters 115, 324 and 359

Laws 2001, Ch. 115, section 12	Effective August 9
Laws 2001, Ch. 324, section 42	Effective August 9
Laws 2001, Ch. 359, section 1	Effective August 9

Explanation

Since these three enactments are not incompatible, the Laws 2001, Ch. 115, Ch. 324 and Ch. 359 text changes to section 42-5075 are blended in the form shown on the following pages.

BLEND OF SECTION 42-5075 (as amended by Laws 2000, Ch. 33, section 1, Ch. 63, section 7, Ch. 214, section 1 and Ch. 359, section 1)
Laws 2001, Chapters 115, 324 and 359

42-5075. Prime contracting classification; exemptions; definitions

A. The prime contracting classification is comprised of the business of prime contracting and dealership of manufactured buildings. The sale of a used manufactured building is not taxable under this chapter. ~~The prime contracting classification does not include the gross proceeds of sales or gross income that is derived from contracts to perform postconstruction treatment of real property for termite and general pest control, including wood destroying organisms.~~ Ch. 115

B. The tax base for the prime contracting classification is sixty-five per cent of the gross proceeds of sales or gross income derived from the business. The following amounts shall be deducted from the gross proceeds of sales or gross income before computing the tax base:

1. The sales price of land, which shall not exceed the fair market value.

2. Sales and installation of groundwater measuring devices required under section 45-604 and groundwater monitoring wells required by law, including monitoring wells installed for acquiring information for a permit required by law.

3. The sales price of furniture, furnishings, fixtures, appliances, and attachments that are not incorporated as component parts of or attached to a manufactured building or the setup site. The sale of such items may be subject to the taxes imposed by article 1 of this chapter separately and distinctly from the sale of the manufactured building.

4. The gross proceeds of sales or gross income received from a contract entered into for the construction, alteration, repair, addition, subtraction, improvement, movement, wrecking or demolition of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement located in a military reuse zone for providing aviation or aerospace services or for a manufacturer, assembler or fabricator of aviation or aerospace products within five years after the zone is initially established OR RENEWED under section 41-1531. To qualify for this deduction, before beginning work under the contract the prime contractor must obtain a letter of qualification from the department of revenue. Ch. 359

5. The gross proceeds of sales or gross income derived from a contract to construct a qualified environmental technology manufacturing, producing or processing facility, as described in section 41-1514.02, and from subsequent construction and installation contracts that begin within ten years after the start of initial construction. To qualify for this deduction, before beginning work under the contract the prime contractor must obtain a letter of qualification from the department of revenue. This

paragraph shall apply for ten full consecutive calendar or fiscal years after the start of initial construction.

6. The gross proceeds of sales or gross income from a contract to provide for one or more of the following actions, or a contract for site preparation, constructing, furnishing or installing machinery, equipment or other tangible personal property, including structures necessary to protect exempt incorporated materials or installed machinery or equipment, and tangible personal property incorporated into the project, to perform one or more of the following actions in response to a release or suspected release of a hazardous substance, pollutant or contaminant from a facility to the environment, unless the release was authorized by a permit issued by a governmental authority:

(a) Actions to monitor, assess and evaluate such a release or a suspected release.

(b) Excavation, removal and transportation of contaminated soil and its treatment or disposal.

(c) Treatment of contaminated soil by vapor extraction, chemical or physical stabilization, soil washing or biological treatment to reduce the concentration, toxicity or mobility of a contaminant.

(d) Pumping and treatment or in situ treatment of contaminated groundwater or surface water to reduce the concentration or toxicity of a contaminant.

(e) The installation of structures, such as cutoff walls or caps, to contain contaminants present in groundwater or soil and prevent them from reaching a location where they could threaten human health or welfare or the environment.

This paragraph does not include asbestos removal or the construction or use of ancillary structures such as maintenance sheds, offices or storage facilities for unattached equipment, pollution control equipment, facilities or other control items required or to be used by a person to prevent or control contamination before it reaches the environment.

7. The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of machinery, equipment or other tangible personal property that is deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B, or that is exempt from use tax pursuant to section 42-5159, subsection B, and that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement. If the ownership of the realty is separate from the ownership of the machinery, equipment or tangible personal property, the determination as to permanent attachment shall be made as if the ownership were the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property that is deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B or that is exempt

from use tax pursuant to section 42-5159, subsection B. For purposes of this paragraph, "permanent attachment" means at least one of the following:

(a) To be incorporated into real property.

(b) To become so affixed to real property that it becomes a part of the real property.

(c) To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

8. The gross proceeds of sales or gross income received from a contract for constructing any lake facility development in a commercial enhancement reuse district that is designated pursuant to section 9-499.08 if the prime contractor maintains the following records in a form satisfactory to the department and to the city or town in which the property is located:

(a) The certificate of qualification of the lake facility development issued by the city or town pursuant to section 9-499.08, subsection D.

(b) All state and local transaction privilege tax returns for the period of time during which the prime contractor received gross proceeds of sales or gross income from a contract to construct a lake facility development in a designated commercial enhancement reuse district, showing the amount exempted from state and local taxation.

(c) Any other information that the department considers to be necessary.

9. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from transaction privilege and use tax under:

(a) Section 42-5061, subsection A, paragraph 25 or 29.

(b) Section 42-5061, subsection B.

(c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b), (c), (d), (e), (f), (i) or (j).

(d) Section 42-5159, subsection B.

10. The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, cooling and packaging of eggs.

11. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

12. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B, paragraph 17.

13. For taxable periods beginning from and after June 30, 2001, the gross proceeds of sales or gross income derived from a contract entered into

for the construction of a residential apartment housing facility that qualifies for a federal housing subsidy for low income persons over sixty-two years of age and that is owned by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.

14. For taxable periods beginning from and after December 31, 1996 and ending before January 1, 2011, the contractor's retail cost of solar energy devices that the contractor supplies and installs pursuant to contracts. The deduction shall not exceed five thousand dollars for each solar energy device. Before deducting any amount under this paragraph, the contractor shall register with the department as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

15. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a launch site, as defined in 14 Code of Federal Regulations ~~part~~ SECTION 401.5.

Chs. 115 and 359

16. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a domestic violence shelter that is owned and operated by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.

Ch. 115

17. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM CONTRACTS TO PERFORM POSTCONSTRUCTION TREATMENT OF REAL PROPERTY FOR TERMITE AND GENERAL PEST CONTROL, INCLUDING WOOD DESTROYING ORGANISMS.

C. Entitlement to the deduction pursuant to subsection B, paragraph 7 of this section is subject to the following provisions:

1. A prime contractor may establish entitlement to the deduction by both:

(a) Marking the invoice for the transaction to indicate that the gross proceeds of sales or gross income derived from the transaction was deducted from the base.

(b) Obtaining a certificate executed by the purchaser indicating the name and address of the purchaser, the precise nature of the business of the purchaser, the purpose for which the purchase was made, the necessary facts to establish the deductibility of the property under section 42-5061, subsection B, and a certification that the person executing the certificate is authorized to do so on behalf of the purchaser. The certificate may be disregarded if the prime contractor has reason to believe that the information contained in the certificate is not accurate or complete.

2. A person who does not comply with paragraph 1 of this subsection may establish entitlement to the deduction by presenting facts necessary to support the entitlement, but the burden of proof is on that person.

3. The department may prescribe a form for the certificate described in paragraph 1, subdivision (b) of this subsection. The department may also adopt rules that describe the transactions with respect to which a person is not entitled to rely solely on the information contained in the certificate provided in paragraph 1, subdivision (b) of this subsection but must instead obtain such additional information as required in order to be entitled to the deduction.

4. If a prime contractor is entitled to a deduction by complying with paragraph 1 of this subsection, the department may require the purchaser who caused the execution of the certificate to establish the accuracy and completeness of the information required to be contained in the certificate which would entitle the prime contractor to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest which the prime contractor would have been required to pay under article 1 of this chapter if the prime contractor had not complied with paragraph 1 of this subsection. Payment of the amount under this paragraph exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as a transaction privilege tax to the purchaser and as tax revenues collected from the prime contractor in order to designate the distribution base for purposes of section 42-5029.

D. Subcontractors or others who perform services in respect to any improvement, building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement are not subject to tax if they can demonstrate that the job was within the control of a prime contractor or contractors or a dealership of manufactured buildings and that the prime contractor or dealership is liable for the tax on the gross income, gross proceeds of sales or gross receipts attributable to the job and from which the subcontractors or others were paid.

E. Amounts received by a contractor for a project are excluded from the contractor's gross proceeds of sales or gross income derived from the business if the person who hired the contractor executes and provides a certificate to the contractor stating that the person providing the certificate is a prime contractor and is liable for the tax under article 1 of this chapter. The department shall prescribe the form of the certificate. If the contractor has reason to believe that the information contained on the certificate is erroneous or incomplete, the department may disregard the certificate. If the person who provides the certificate is not liable for the tax as a prime contractor, that person is nevertheless deemed to be the prime contractor in lieu of the contractor and is subject to the tax under this section on the gross receipts or gross proceeds received by the contractor.

F. Every person engaging or continuing in this state in the business of prime contracting or dealership of manufactured buildings shall present to the purchaser of such prime contracting or manufactured building a written receipt of the gross income or gross proceeds of sales from such activity and shall separately state the taxes to be paid pursuant to this section.

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G. FOR PURPOSES OF SECTION 42-5032.01, THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED UNDER THE PRIME CONTRACTING CLASSIFICATION FROM ANY PRIME CONTRACTOR ENGAGED IN THE PREPARATION OR CONSTRUCTION OF A MULTIPURPOSE FACILITY, AND RELATED INFRASTRUCTURE, THAT IS OWNED, OPERATED OR LEASED BY THE TOURISM AND SPORTS AUTHORITY PURSUANT TO TITLE 5, CHAPTER 8.

~~G.~~ H. For purposes of this section:

1. "Contracting" means engaging in business as a contractor.

2. "Contractor" is synonymous with the term "builder" and means any person, firm, partnership, corporation, association or other organization,

or a combination of any of them, that undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does personally or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement, or to do any part of such a project, including the erection of scaffolding or other structure or works in connection with such a project, and includes subcontractors and specialty contractors. For all purposes of taxation or deduction, this definition shall govern without regard to whether or not such contractor is acting in fulfillment of a contract.

3. "Dealership of manufactured buildings" means a dealer who either:

(a) Is licensed pursuant to title 41, chapter 16 and who sells at retail manufactured buildings.

(b) Supervises, performs or coordinates the excavation and completion of site improvements, setup or moving of a manufactured building including the contracting, if any, with any subcontractor or specialty contractor for the completion of the contract.

4. "Manufactured building" means a manufactured home, mobile home or factory-built building, as defined in section 41-2142.

5. "Prime contracting" means engaging in business as a prime contractor.

6. "Prime contractor" means a contractor who supervises, performs or coordinates the construction, alteration, repair, addition, subtraction, improvement, movement, wreckage or demolition of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement including the contracting, if any, with any subcontractors or specialty contractors and who is responsible for the completion of the contract.

7. "Sale of a used manufactured building" does not include a lease of a used manufactured building.

EXPLANATION OF BLEND
SECTION 42-5159

Laws 2001, Chapters 137, 287 and 314

Laws 2001, Ch. 137, section 2	Effective August 9 (Retroactive to June 8, 1994)
Laws 2001, Ch. 287, section 92	Effective August 9
Laws 2001, Ch. 314, section 3	Effective August 9 (Retroactive to January 1, 1983)

Explanation

Since these three enactments are not incompatible, the Laws 2001, Ch. 137, Ch. 287 and Ch. 314 text changes to section 42-5159 are blended in the form shown on the following pages.

Section 42-5159 was amended an additional time by Laws 2001, Ch. 115 that will require separate publication in addition to this blend.

BLEND OF SECTION 42-5159
Laws 2001, Chapters 137, 287 and 314

42-5159. Exemptions

A. The tax levied by this article does not apply to the storage, use or consumption in this state of the following described tangible personal property:

1. Tangible personal property sold in this state, the gross receipts from the sale of which are included in the measure of the tax imposed by articles 1 and 2 of this chapter.

2. Tangible personal property the sale or use of which has already been subjected to an excise tax at a rate equal to or exceeding the tax imposed by this article under the laws of another state of the United States. If the excise tax imposed by the other state is at a rate less than the tax imposed by this article, the tax imposed by this article is reduced by the amount of the tax already imposed by the other state.

3. Tangible personal property, the storage, use or consumption of which the constitution or laws of the United States prohibit this state from taxing.

4. Tangible personal property which directly enters into and becomes an ingredient or component part of any manufactured, fabricated or processed article, substance or commodity for sale in the regular course of business.

5. Motor vehicle fuel and use fuel, the sales, distribution or use of which in this state is subject to the tax imposed under the provisions of title 28, chapter 16, article 1 ~~or 2~~, use fuel which is sold to or used by a person holding a valid single trip use fuel tax permit issued under section 28-5739, aviation fuel, the sales, distribution or use of which in this state is subject to the tax imposed under section 28-8344, and jet fuel, the sales, distribution or use of which in this state is subject to the tax imposed under article 8 of this chapter.

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6. Tangible personal property brought into this state by an individual who was a nonresident at the time the property was purchased for storage, use or consumption by the individual if the first actual use or consumption of the property was outside this state, unless the property is used in conducting a business in this state.

7. Purchases of implants used as growth promotants and injectable medicines, not already exempt under paragraph 16 of this subsection, for livestock and poultry owned by, or in possession of, persons who are engaged in producing livestock, poultry, or livestock or poultry products, or who are engaged in feeding livestock or poultry commercially. For purposes of this paragraph, "poultry" includes ratites.

8. Livestock, poultry, supplies, feed, salts, vitamins and other additives for use or consumption in the businesses of farming, ranching and feeding livestock or poultry, not including fertilizers, herbicides and insecticides. For purposes of this paragraph, "poultry" includes ratites.

9. Seeds, seedlings, roots, bulbs, cuttings and other propagative material for use in commercially producing agricultural, horticultural, viticultural or floricultural crops in this state.

10. Tangible personal property not exceeding two hundred dollars in any one month purchased by an individual at retail outside the continental limits of the United States for the individual's own personal use and enjoyment.

11. Advertising supplements which are intended for sale with newspapers published in this state and which have already been subjected to an excise tax under the laws of another state in the United States which equals or exceeds the tax imposed by this article.

12. Materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

13. Tangible personal property purchased by:

(a) A hospital organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(b) A hospital operated by this state or a political subdivision of this state.

(c) A licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.

(d) A qualifying health care organization, as defined in section 42-5001, if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(e) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind, visually impaired and multihandicapped children from the time of birth to age twenty-one.

(f) A nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively for training, job placement or rehabilitation programs or testing for mentally or physically handicapped persons.

(g) A person that is subject to tax under article 1 of this chapter by reason of being engaged in business classified under the prime contracting classification under section 42-5075, or a subcontractor working under the control of a prime contractor, if the tangible personal property is any of the following:

(i) Incorporated or fabricated by the contractor into a structure, project, development or improvement in fulfillment of a contract.

(ii) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

(iii) Incorporated or fabricated by the person into any lake facility development in a commercial enhancement reuse district under conditions prescribed for the deduction allowed by section 42-5075, subsection B, paragraph 8.

(h) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code if the property is purchased from the parent or an affiliate organization that is located outside this state.

(i) A qualifying community health center as defined in section 42-5001.

(j) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(k) A person engaged in business under the transient lodging classification if the property is a personal hygiene product OR ARTICLES USED BY HUMAN BEINGS FOR FOOD, DRINK OR CONDIMENT, EXCEPT ALCOHOLIC BEVERAGES, which ~~is~~ ARE furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy. Ch. 137

(l) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

14. Commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

15. Tangible personal property sold by:

(a) Any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

(b) A nonprofit organization that is exempt from taxation under section 501(c)(3) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

(c) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

16. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

17. Prosthetic appliances, as defined in section 23-501, prescribed or recommended by a person who is licensed, registered or otherwise professionally credentialed as a physician, dentist, podiatrist, chiropractor, naturopath, homeopath, nurse or optometrist.

18. Prescription eyeglasses and contact lenses.

19. Insulin, insulin syringes and glucose test strips.

20. Hearing aids as defined in section 36-1901.

21. Durable medical equipment which has a federal health care financing administration common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

22. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.

23. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).

24. Food and drink provided without monetary charge by a taxpayer which is subject to section 42-5074 to its employees for their own consumption on the premises during the employees' hours of employment.

25. Tangible personal property that is used or consumed in a business subject to section 42-5074 for human food, drink or condiment, whether simple, mixed or compounded.

26. Food, drink or condiment and accessory tangible personal property if they are to be prepared and served to persons for consumption on the premises of a public school in a school district during school hours.

27. Lottery tickets or shares purchased pursuant to title 5, chapter 5, article 1.

28. Textbooks, sold by a bookstore, that are required by any state university or community college.

29. Magazines, other periodicals or other publications produced by this state to encourage tourist travel.

30. Paper machine clothing, such as forming fabrics and dryer felts, purchased by a paper manufacturer and directly used or consumed in paper manufacturing.

31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity purchased by a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for fifteen full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

32. Motor vehicles that are removed from inventory by a motor vehicle dealer as defined in section 28-4301 and that are provided to:

(a) Charitable or educational institutions that are exempt from taxation under section 501(c)(3) of the internal revenue code.

(b) Public educational institutions.

(c) State universities or affiliated organizations of a state university if no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Natural gas or liquefied petroleum gas used to propel a motor vehicle.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person who is physically disabled as defined in section 46-191, has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any exemption for such chemicals that is otherwise provided by this section. For purposes of this paragraph "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

36. Food, drink and condiment purchased for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

37. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

38. Tangible personal property which is or directly enters into and becomes an ingredient or component part of cards used as prescription plan identification cards.

39. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract. For purposes of this paragraph:

(a) "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from which would otherwise be included in the retail classification, and which are used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based upon generally accepted accounting principles and consistent with government contract accounting standards.

(b) "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of

one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed, and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

40. Through December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061. From and after December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061, if the gross proceeds of the sales were included in the measure of the tax imposed by article 1 of this chapter or if the personal property liquidation was a casual activity or transaction.

41. Wireless telecommunications equipment that is held for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064.

42. Alternative fuel, as defined in section 1-215, purchased by a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

43. Tangible personal property purchased by a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

44. Alternative fuel vehicles, as defined in section 43-1086, if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

45. Gas diverted from a pipeline, by a person engaged in the business of operating a natural or artificial gas pipeline, and used or consumed for the sole purpose of fueling compressor equipment that pressurizes the pipeline.

46. Tangible personal property that is excluded, exempt or deductible from transaction privilege tax pursuant to section 42-5063.

47. Tangible personal property purchased to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

Ch. 314

48. SALES OF TANGIBLE PERSONAL PROPERTY BY A NONPROFIT ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER SECTION 501(c)(6) OF THE INTERNAL REVENUE CODE IF THE ORGANIZATION PRODUCES, ORGANIZES OR PROMOTES CULTURAL OR CIVIC RELATED FESTIVALS OR EVENTS AND NO PART OF THE ORGANIZATION'S NET EARNINGS INURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL.

B. In addition to the exemptions allowed by subsection A of this section, the following categories of tangible personal property are also exempt:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064 and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media which are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(b) Any foreign government for use by such government outside of this state, or sold to persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9. Rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles which are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and which are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

12. Groundwater measuring devices required under section 45-604.

13. New machinery and equipment consisting of tractors, tractor-drawn implements, self-powered implements, machinery and equipment that are necessary for extracting milk, and for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. In this paragraph:

(a) "New machinery and equipment" means machinery or equipment which has never been sold at retail except pursuant to leases or rentals which do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. In this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Machinery and equipment that are purchased by or on behalf of the owners of a soundstage complex and primarily used for motion picture, multimedia or interactive video production in the complex. This paragraph applies only if the initial construction of the soundstage complex begins after June 30, 1996 and before January 1, 2002 and the machinery and equipment are purchased before the expiration of five years after the start of initial construction. For purposes of this paragraph:

(a) "Motion picture, multimedia or interactive video production" includes products for theatrical and television release, educational presentations, electronic retailing, documentaries, music videos, industrial films, CD-ROM, video game production, commercial advertising and television episode production and other genres that are introduced through developing technology.

(b) "Soundstage complex" means a facility of multiple stages including production offices, construction shops and related areas, prop and costume shops, storage areas, parking for production vehicles and areas that are

leased to businesses that complement the production needs and orientation of the overall facility.

16. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations parts 25 and 100.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations parts 25 and 100.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

17. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

18. Machinery and equipment that are used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

19. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the

United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

20. Machinery and equipment that are used in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state and that are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

21. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

C. The exemptions provided by subsection B of this section do not include:

1. Expendable materials. For purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 16 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

D. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Revenues received from sales of ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity to a retail electric customer who is located outside this state for use outside this state if the electricity is delivered to a point of sale outside this state.

2. Revenues received from providing electricity, including ancillary services, electric distribution services, electric generation services,

electric transmission services and other services related to providing electricity with respect to which the transaction privilege tax imposed under section 42-5063 has been paid.

E. The tax levied by this article does not apply to:

1. The storage, use or consumption in Arizona of machinery, equipment, materials or other tangible personal property if used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility, as described in section 41-1514.02. This paragraph applies for ten full consecutive calendar or fiscal years after the start of initial construction.

2. The purchase of electricity by a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 that is used directly in environmental technology manufacturing, producing or processing. This paragraph shall apply for fifteen full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

F. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Fees charged by a municipally owned utility to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

2. Reimbursement or contribution compensation to any person or persons owning a utility system for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This deduction shall not exceed the value of such property and equipment.

G. For the purposes of subsection B of this section:

1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

H. For purposes of subsection D of this section, "ancillary services", "electric distribution service", "electric generation service", "electric transmission service" and "other services" have the same meanings prescribed by section 42-5063.

EXPLANATION OF BLEND
SECTION 42-16108

Laws 2001, Chapters 186 and 267

Laws 2001, Ch. 186, section 1	Effective April 21
Laws 2001, Ch. 267, section 34	Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 186 and Ch. 267 text changes to section 42-16108 are blended in the form shown on the following page.

BLEND OF SECTION 42-16108
Laws 2001, Chapters 186 and 267

42-16108. Decision

A. Except as provided in subsection B of this section, the county board shall either grant or refuse the request of the petitioner, in whole or in part, as it considers just and proper within ten days after the date of the hearing, and in any event not later than October 15.

B. In the case of an appeal under section 42-16105, subsection C, the county board shall complete the hearing and issue a decision on or before the third Friday in November of the calendar year preceding the year in which the taxes are levied.

Ch. 186 C. IN THE CASE OF A PERSONAL PROPERTY APPEAL UNDER SECTION 42-19052, THE COUNTY BOARD OF EQUALIZATION SHALL COMPLETE THE HEARING AND ISSUE A DECISION ON OR BEFORE DECEMBER 1 OF THE CALENDAR YEAR ON WHICH THE TAXES ARE LEVIED.

Ch. 267 ~~C.~~ D. Within ten days after its decision the county board shall mail a copy of the decision TO THE COUNTY ASSESSOR AND to the petitioner at the address shown on the petition.

EXPLANATION OF BLEND
SECTION 42-16165

Laws 2001, Chapters 186 and 267

Laws 2001, Ch. 186, section 2 — Effective April 21

Laws 2001, Ch. 267, section 36 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 186 and Ch. 267 text changes to section 42-16165 are blended in the form shown on the following page.

BLEND OF SECTION 42-16165
Laws 2001, Chapters 186 and 267

42-16165. Deadlines for issuing decisions

The state board shall complete all hearings and issue all decisions under this article on or before October 15 of each year, except for:

1. Cases involving property valued by the department, in which case the decisions shall be issued on or before November 15.

Ch. 267 — 2. An appeal under section 42-16157, subsection C ~~or D~~, which shall be completed on or before the third Friday in November of the calendar year preceding the year in which the taxes are levied.

Ch. 186 — 3. IN THE CASE OF A PERSONAL PROPERTY APPEAL UNDER SECTION 42-19052, THE STATE BOARD OF EQUALIZATION SHALL COMPLETE THE HEARING AND ISSUE A DECISION ON OR BEFORE DECEMBER 1 OF THE CALENDAR YEAR IN WHICH THE TAXES ARE LEVIED.

EXPLANATION OF BLEND
SECTION 42-17153

Laws 2001, Chapters 242 and 267

Laws 2001, Ch. 242, section 1 — Effective August 9

Laws 2001, Ch. 267, section 44 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 242 and Ch. 267 text changes to section 42-17153 are blended in the form shown on the following page.

BLEND OF SECTION 42-17153
Laws 2001, Chapters 242 and 267

42-17153. Lien for taxes; time lien attaches; priority

A. Except as provided in subsection B of this section, a tax that is levied on real or personal property is a lien on the assessed property.

B. A tax that is levied against personal property of a person who owns real property of a value of less than two hundred dollars in the county is a personal liability of the property owner, in addition to being a lien against the property.

C. The lien:

Ch. 267 — 1. Attaches on January 1 of ~~each~~ THE TAX year.

2. Is not satisfied or removed until one of the following occurs:

(a) The taxes, penalties, charges and interest are paid.

(b) Title to the property has finally vested in a purchaser under a sale for taxes.

(c) A certificate of removal and abatement has been issued pursuant to section 42-18353.

3. Is prior and superior to all other liens and encumbrances on the property, except:

Ch. 242 — (a) Liens or encumbrances held by this state.

(b) LIENS FOR TAXES ACCRUING IN ANY OTHER YEARS.

D. If a political subdivision of this state acquires title to property after December 31, 1998, any lien for delinquent taxes on the property:

1. Is not abated, extinguished, discharged or merged in the title to the property unless approved by the county board of supervisors.

2. Is enforceable in the same manner as other delinquent tax liens.

EXPLANATION OF BLEND
SECTION 44-313

Laws 2001, Chapters 117 and 146

Laws 2001, Ch. 117, section 36 — Effective August 9

Laws 2001, Ch. 146, section 5 — Effective August 9
(Retroactive to January 1, 2001)

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 117 and Ch. 146 text changes to section 44-313 are blended in the form shown on the following pages.

Section 44-313 was amended an additional time by Laws 2001, Ch. 22 with a delayed effective date that will require separate publication in addition to this blend.

BLEND OF SECTION 44-313
Laws 2001, Chapters 117 and 146

44-313. Deposit of monies; definition

A. Except as otherwise provided in this section or section 44-314, the department shall ~~transmit~~ DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, all monies received pursuant to this chapter, including the proceeds from the sale of abandoned property pursuant to section 44-312, ~~to the state treasurer for deposit [in the state general fund,]~~ and ~~the state treasurer shall transfer~~ EXCEPT THAT:

Chs. 117 and 146

Ch. 146

1. Thirty-five per cent of the monies ~~to~~ SHALL BE DEPOSITED IN the housing trust fund established by section 41-1512.

2. Twenty per cent of the monies ~~to~~ SHALL BE DEPOSITED IN the housing trust fund established by section 41-1512. These monies shall be used exclusively for the development of eligible and viable affordable housing in rural areas and for the purposes authorized under the housing development fund established by section 41-1518.

Ch. 117

3. Twenty per cent of the monies ~~to~~ SHALL BE DEPOSITED IN the funds in the amounts provided in section 5-113, subsection A.

B. The department shall deposit monies from unclaimed shares and dividends of any corporation incorporated under the laws of this state in the permanent state school fund pursuant to article XI, section 8, Constitution of Arizona.

C. THE DEPARTMENT SHALL DEPOSIT MONIES FROM UNCLAIMED VICTIM RESTITUTION PAYMENTS IN THE VICTIM COMPENSATION AND ASSISTANCE FUND ESTABLISHED BY SECTION 41-2407 FOR THE PURPOSE OF ESTABLISHING, MAINTAINING AND SUPPORTING PROGRAMS THAT COMPENSATE AND ASSIST VICTIMS OF CRIME.

Ch. 146

~~C.~~ D. The department shall retain in a separate trust fund at least one hundred thousand dollars from which the department shall pay claims.

~~D.~~ E. Before making the deposit, the department shall record the name and last known address of each person who appears from the holders' reports to be entitled to the property and the name and last known address of each insured person or annuitant and beneficiary. The department shall also record the policy or contract number of each policy or contract of an insurance company that is listed in the report, the name of the company and the amount due. The department shall make the record available for public inspection during reasonable business hours.

~~E.~~ F. Before making any deposit to the credit of the state general fund, the department may deduct, subject to legislative appropriation, administrative expenses in the following order of priority:

1. Any costs in connection with the sale of abandoned property.

2. Costs of mailing and publication in connection with any abandoned property.

3. Reasonable department service charges.

4. Costs incurred in examining records of holders of property and in collecting the property from those holders.

5. Lawful holder charges.

~~F.~~ G. The department shall deposit monies received pursuant to section 35-187 in the homeless trust fund as provided in section 41-2021 in an amount of not more than one million dollars. The department shall deposit monies in excess of one million dollars pursuant to the distribution described in subsections A and B of this section. Before making any deposit in the homeless trust fund, the department shall deduct any amounts related to owner claims and interest payments.

~~G.~~ H. For the purposes of this section, "rural area" means either:

1. A county with a population of less than four hundred thousand persons.

2. A census county division with less than fifty thousand persons in a county with a population of four hundred thousand or more persons.

EXPLANATION OF BLEND
SECTION 44-2039

Laws 2001, Chapters 7, 238 and 300

Laws 2001, Ch. 7, section 11	Effective August 9
Laws 2001, Ch. 238, section 14	Effective August 9
Laws 2001, Ch. 300, section 6	Effective August 9

Explanation

Since these three enactments are not incompatible, the Laws 2001, Ch. 7, Ch. 238 and Ch. 300 text changes to section 44-2039 are blended in the form shown on the following page.

BLEND OF SECTION 44-2039
Laws 2001, Chapters 7, 238 and 300

44-2039. Securities regulatory and enforcement fund; purpose

A. A securities regulatory and enforcement fund is established and shall be administered by the commission under the conditions and for the purposes provided by this section. Monies in the fund are exempt from the provisions of section 35-190, relating to lapsing. (Chs. 238 and 300)

B. Fees collected pursuant to section 44-1861, subsection A, paragraphs 1 and 2 and subsections D and P shall be deposited, pursuant to sections 35-146 and 35-147, in the securities regulatory and enforcement fund.

C. Monies in the fund are subject to legislative appropriation. The commission shall use the monies in the fund for education and regulatory, investigative and enforcement operations in the securities division AND A PART OF GENERAL ADMINISTRATIVE AND HEARING EXPENSES OF THE COMMISSION. (Chs. 238 and 300)

~~D. On or before January 15, April 15, July 15 and October 15, the commission shall cause to be filed with the governor, with copies to the director of the department of administration, the president of the senate and the speaker of the house of representatives, a full and complete account of the receipts and disbursements from the fund in the previous calendar quarter.~~ (Ch. 7)

EXPLANATION OF BLEND
SECTION 46-134

Laws 2001, Chapters 265 and 344

Laws 2001, Ch. 265, section 1	Effective August 9
Laws 2001, Ch. 344, section 95	Conditionally effective

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 265 and Ch. 344 text changes to section 46-134 are blended in the form shown on the following pages.

The publisher will print this blend version pending the occurrence of the condition stated in Laws 2001, Ch. 344. If the condition does not occur before October 1, 2001, Laws 2001, Ch. 344 does not become effective and the publisher will delete this blend version of section 46-134.

BLEND OF SECTION 46-134
Laws 2001, Chapters 265 and 344

46-134. Powers and duties; expenditure; limitation

A. The state department shall:

1. Administer all forms of public relief and assistance except those which by law are administered by other departments, agencies or boards.

2. Administer child welfare activities, including:

(a) Importation of children.

(b) Licensing and supervising private and local public child caring agencies and institutions.

(c) Providing the cost of care of:

(i) Children who are in temporary custody, are the subject of a dependency petition or are adjudicated by the court as dependent and who are in out-of-home placement, except state institutions.

Ch. 265 (ii) Children who are voluntarily placed in ~~foster family homes as provided in~~ OUT-OF-HOME PLACEMENT PURSUANT TO section 8-806.

(iii) Children who are the subject of a dependency petition or are adjudicated dependent and who are in the custody of the department and ordered by the court pursuant to section 8-845 to reside in an independent living program pursuant to section 8-521.

(d) Providing services for children placed in adoption.

(e) Providing the cost of care of unwed mothers who are under the age of eighteen years during the period of their pregnancy and confinement in foster family homes or institutions and when determined by the department to be economically eligible. Costs of hospitalization and medical expenses attendant to the care of the mother and child shall be excluded from any payments made under this subdivision.

3. For the purposes of paragraph 2, subdivision (c), develop and implement in conjunction with the department of education and the department of juvenile corrections a uniform budget format to be submitted by licensed child welfare agencies and approved private special education schools. The budget format shall be developed in such a manner that, at a minimum, residential and educational instructional costs are separate and distinct budgetary items.

4. Develop a section of rehabilitation for the visually impaired which shall include a sight conservation section, a vocational rehabilitation section in accordance with the federal vocational rehabilitation act, a vending stand section in accordance with the federal Randolph-Sheppard act and an adjustment service section which shall include rehabilitation teaching and other social services deemed necessary, and shall cooperate with similar agencies already established. The administrative officer and staff of the section for the blind and visually impaired shall be employed only in the work of that section.

5. Assist other departments, agencies and institutions of the state and federal governments, when requested, by performing services in conformity with the purposes of this title.

6. Act as agent of the federal government in furtherance of any functions of the state department.

7. Carry on research and compile statistics relating to the entire public welfare program throughout this state, including all phases of dependency and defectiveness.

8. Cooperate with the superior court in cases of delinquency and related problems.

9. Develop plans in cooperation with other public and private agencies for the prevention and treatment of conditions giving rise to public welfare and social security problems.

10. Make necessary expenditures in connection with the duties specified in paragraphs 7, 8, 9, 15, 16 and 17.

11. Have the power to apply for, accept, receive and expend public and private gifts or grants of money or property upon such terms and conditions as may be imposed by the donor and for any purpose provided for by this chapter.

12. Make rules, and take action necessary or desirable to carry out the provisions of this title, which are not inconsistent with this title.

13. Administer any additional welfare functions required by law.

14. Provide the cost of care and transitional independent living services for a person under twenty-one years of age pursuant to section 8-521.01.

15. Petition, as necessary to implement the case plan established under section 8-824 or 8-845, for the appointment of a guardian or a temporary guardian under title 14, chapter 5 for children who are in custody of the department pursuant to court order. Persons applying to be guardians or temporary guardians under this section shall be fingerprinted. A foster parent or certified adoptive parent already fingerprinted is not required to be fingerprinted again if he is the person applying to be the guardian or temporary guardian.

16. If a tribal government elects to operate a cash assistance program in compliance with the requirements of the United States department of health and human services, with the review of the joint legislative budget committee, provide matching monies at a rate that is consistent with the applicable fiscal year budget and that is not more than the state matching rate for the aid to families with dependent children program as it existed on July 1, 1994.

17. Furnish a federal, state or local law enforcement officer, at the request of the officer, with the current address of any recipient if the officer furnishes the agency with the name of the recipient and notifies the agency that the recipient is a fugitive felon or a probation, parole or community supervision violator or has information that is necessary for the officer to conduct the official duties of the officer and the location or apprehension of the recipient is within these official duties.

18. In conjunction with Indian tribal governments, request a federal waiver from the United States department of agriculture that will allow tribal governments that perform eligibility determinations for temporary assistance for needy families programs to perform the food stamp eligibility determinations for persons who apply for services pursuant to section

Ch. 344 — 36-2901, paragraph ~~4~~ 6, subdivision ~~(b)~~ (a). If the waiver is approved, the state shall provide the state matching monies for the administrative costs associated with the food stamp eligibility based on federal guidelines. As part of the waiver, the department shall recoup from a tribal government all federal fiscal sanctions that result from inaccurate eligibility determinations.

B. The total amount of state monies that may be spent in any fiscal year by the state department for foster care as provided in subsection A, paragraph 2, subdivision (c) of this section shall not exceed the amount appropriated or authorized by section 35-173 for that purpose. This section shall not be construed to impose a duty on an officer, agent or employee of this state to discharge a responsibility or to create any right in a person or group if the discharge or right would require an expenditure of state monies in excess of the expenditure authorized by legislative appropriation for that specific purpose.

C. Beginning on January 1, 2001, the department shall complete a written report on the distribution of the federal monies received pursuant to section 8-521.01. The joint legislative budget committee shall determine the data to be collected regarding how the monies will be spent and have been spent. The department shall submit this report annually to the governor, the president of the senate, the speaker of the house of representatives, the joint legislative budget committee and the joint legislative committee on children and family services and shall provide a copy of this report to the secretary of state and the director of the ~~department of~~ ARIZONA STATE library, archives and public records.

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EXPLANATION OF BLEND
SECTION 48-262

Laws 2001, Chapters 69, 169 and 248

Laws 2001, Ch. 69, section 1	Effective August 9
Laws 2001, Ch. 169, section 10	Effective August 9
Laws 2001, Ch. 248, section 2	Effective August 9

Explanation

Since these three enactments are not incompatible, the Laws 2001, Ch. 69, Ch. 169 and Ch. 248 text changes to section 48-262 are blended in the form shown on the following pages.

The Laws 2001, Ch. 69 version of section 48-262 had the order of stricken words and new words in a different order in subsection A, paragraph 9 than the Ch. 248 version. Also the Ch. 69 version used the phrase "prescribed by" in two places and the Ch. 248 version used "in". Since these would not produce substantive changes, the blend version reflects the Ch. 248 version.

The Ch. 69 version of section 48-262 added the phrase "by multiple owners" in two places in subsection B, paragraph 2, in place of "in joint tenancy". The Ch. 248 version added the phrase "multiple ownership" in place of "joint tenancy". Since this would not produce a substantive change, the blend version reflects the Ch. 248 version.

BLEND OF SECTION 48-262
Laws 2001, Chapters 69, 169 and 248

48-262. District boundary changes; procedures; notice; hearing; determinations; petitions; definitions

A. Except as prescribed by subsection H of this section, a fire district, community park maintenance district or sanitary district shall change its boundaries by the following procedures:

1. Any person desiring to propose any change to the boundaries of a district shall prepare and submit a boundary change impact statement to the governing body of the district. The boundary change impact statement shall contain at least the following information:

(a) A description of the boundaries of the area to be included within the proposed change and a detailed, accurate map of the area.

(b) An estimate of the assessed valuation within the boundaries of the proposed change.

(c) An estimate of the change in the tax rate of the district if the proposed change is made.

(d) An estimate of the change in the property tax liability, as a result of the proposed change, of a typical resident of a portion of the district, not in the area of the proposed change, before and after the proposed change and of a typical resident of the area of the proposed change.

(e) A list and explanation of benefits that will result from the proposed change to the residents of the area and of the remainder of the district.

(f) A list and explanation of the injuries that will result from the proposed change to residents of the area and of the remainder of the district.

2. On receipt of the boundary change impact statement, the governing body shall set a day, not fewer than twenty nor more than thirty days from that date, for a hearing on the boundary change impact statement. The board of supervisors may at any time prior to making a determination pursuant to paragraph 5 of this subsection require that the impact statement be amended to include any information that the board of supervisors deems to be relevant and necessary.

3. Upon receipt of the boundary change impact statement, the clerk of the governing body shall mail, by first class mail, written notice of the statement, its purpose and notice of the day, hour and place of the hearing on the proposed change to each owner of taxable property and each qualified elector within the boundaries of the proposed change. The clerk of the governing body shall post the notice in at least three conspicuous public places in the area of the proposed change and also publish twice in a daily newspaper of general circulation in the area of the proposed change, at least ten days before the hearing, or if no daily newspaper of general circulation exists in the area of the proposed change, then at least twice at any time before the date of the hearing, a notice setting forth the purpose of the

impact statement, the description of the boundaries of the proposed change and the day, hour and place of the hearing.

4. Upon receipt of the boundary change impact statement the clerk shall also mail notice, as provided in paragraph 3 of this subsection, to the chairman of the board of supervisors of the county in which the district is located. The chairman of the board of supervisors shall order a review of the proposed change and may submit written comments to the governing body of the district within ten days of receipt of the notice.

5. At the hearing called pursuant to paragraph 2 of this subsection, the governing body shall consider the comments of the board of supervisors, hear those who appear for and against the proposed change and determine whether the proposed change will promote the public health, comfort, convenience, necessity or welfare. If the governing body determines that the public health, comfort, convenience, necessity or welfare will be promoted, it shall approve the impact statement and authorize the persons proposing the change to circulate petitions as provided in this subsection. The order of the governing body shall be final, but if the request to circulate petitions is denied, a subsequent request for a similar change may be refiled with the governing body after six months from the date of such denial.

6. A person aggrieved by a decision of the governing body under this section may appeal to the board of supervisors of the county in which the district, or a majority of the district, is located, and a person aggrieved by a decision of the board of supervisors may appeal to the superior court in the county in the manner prescribed by title 12, chapter 7, article 6 and by posting a bond equal to the probable costs conditioned that the appellant will prosecute his appeal and will pay all costs that accrue in the court if a judgment is rendered affirming the decision of the board of supervisors. The court shall require the district governing body to pay all costs that accrue in the court, including reasonable attorney fees, and the bond shall be returned to the appellant, if a judgment is rendered in favor of the appellant.

7. After receiving the approval of the governing body as provided in paragraph 5 of this subsection and provided no appeal filed pursuant to paragraph 6 of this subsection remains unresolved, the person proposing the change may circulate and present petitions to the governing body of the district.

Ch. 69

8. WITHIN FIFTEEN DAYS AFTER RECEIVING THE APPROVAL OF THE GOVERNING BODY AS PRESCRIBED BY PARAGRAPH 5 OF THIS SUBSECTION AND AFTER ANY APPEAL FILED PURSUANT TO PARAGRAPH 6 OF THIS SUBSECTION HAS BEEN RESOLVED, THE CLERK OF THE BOARD SHALL DETERMINE THE MINIMUM NUMBER OF SIGNATURES REQUIRED TO COMPLY WITH PARAGRAPH 9, SUBDIVISION (d) OF THIS SUBSECTION. AFTER MAKING THAT DETERMINATION, THAT NUMBER OF SIGNATURES SHALL REMAIN FIXED, NOTWITHSTANDING ANY SUBSEQUENT CHANGES IN THE VOTER REGISTRATION RECORDS.

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~~8.~~ 9. The petitions presented pursuant to paragraph 7 of this subsection SHALL COMPLY WITH THE PROVISIONS REGARDING PETITION FORM IN SECTION 48-265 AND VERIFICATION IN SECTION 48-266 AND shall:

(a) At all times, contain a description of the boundaries of the area to be included within the proposed change and a detailed, accurate map of the area included within the proposed change. No alteration of the described

area shall be made after receiving the approval of the governing body as provided in paragraph 5 of this subsection.

(b) IF A PETITION OF PROPERTY OWNERS, be signed by more than one-half of the property owners within the boundaries of the proposed change.

Ch, 248 (c) IF A PETITION OF PROPERTY OWNERS, be signed by persons owning collectively more than one-half of the assessed valuation of the property within the boundaries of the proposed change.

(d) IF A PETITION OF QUALIFIED ELECTORS, be signed by more than one-half of the qualified electors within the boundaries of the proposed change.

~~9.~~ 10. On receipt of the petitions, the governing body shall set a day, not fewer than ten nor more than thirty days from that date, for a hearing on the request.

~~10.~~ 11. Prior to the hearing called pursuant to paragraph ~~9~~ 10 of Ch. 69 this subsection, the board of supervisors shall determine the validity of the petitions presented PURSUANT TO SUBSECTION B OF THIS SECTION.

~~11.~~ 12. At the hearing called pursuant to paragraph ~~9~~ 10 of this subsection, the governing body shall, if the petitions are valid, order the change to the boundaries. The governing body shall enter its order setting forth its determination in the minutes of the meeting, not later than ten Ch. 169 days from the day of the hearing, and a copy of the order shall be SENT TO THE OFFICER IN CHARGE OF ELECTIONS AND A COPY SHALL BE recorded in the county recorder's office. The order of the governing body shall be final, and the proposed change shall be made to the district boundaries thirty days after the governing body votes. An appeal of the order to change the boundaries to the board of supervisors pursuant to paragraph 6 of this subsection must be filed with the board of supervisors during such thirty day period.

B. For the purpose of determining the validity of the petitions presented pursuant to subsection A, paragraph 7 of this section:

1. Qualified electors shall be those persons qualified to vote pursuant to title 16.

2. For the purposes of fulfilling the requirements of subsection A, Ch. 69 paragraph ~~8~~ 9, subdivisions (b) and (c) of this section, property held in ~~joint tenancy~~ MULTIPLE OWNERSHIP shall be treated as if it had only one Chs. 69 property owner, so that the signature of only one of the owners of property and 248 held in ~~joint tenancy~~ MULTIPLE OWNERSHIP is required on the boundary change petition.

3. The value of property shall be determined as follows:

(a) In the case of property assessed by the county assessor, values shall be the same as those shown on the last assessment roll of the county containing such property.

(b) In the case of property valued by the department of revenue, the values shall be those determined by the department in the manner provided by law, for municipal assessment purposes. The county assessor and the department of revenue, respectively, shall furnish to the governing body, within twenty days after such a request, a statement in writing showing the owner, the address of each owner and the appraisal or assessment value of properties contained within the area of a proposed change as described in subsection A of this section.

4. ALL PETITIONS CIRCULATED SHALL BE RETURNED TO THE GOVERNING BODY OF THE DISTRICT WITHIN ONE YEAR FROM THE DATE OF THE APPROVAL GIVEN BY THE GOVERNING BODY PURSUANT TO SUBSECTION A, PARAGRAPH 5 OF THIS SECTION. ANY PETITION RETURNED MORE THAN ONE YEAR FROM THAT DATE IS VOID. IF AN APPEAL IS FILED PURSUANT TO SUBSECTION A, PARAGRAPH 6 OF THIS SECTION, THIS TIME PERIOD FOR GATHERING SIGNATURES IS TOLLED BEGINNING ON THE DATE AN ACTION IS FILED IN SUPERIOR COURT AND CONTINUING UNTIL THE EXPIRATION OF THE TIME PERIOD FOR ANY FURTHER APPEAL.

Ch. 69

C. If the change in the boundaries proposed pursuant to subsection A of this section would result in a withdrawal of territory from an existing district, the petitions shall be approved by the governing body only if the proposed withdrawal would not result in a noncontiguous portion of the district that is less than one square mile in size. IF THE CHANGES PROPOSED WOULD RESULT IN AN INCREASE IN THE TERRITORY OF THE DISTRICT, THE PETITIONS SHALL BE APPROVED BY THE GOVERNING BODY ONLY IF THE PROPOSED ADDITIONS WOULD BE CONTIGUOUS TO THE EXISTING DISTRICT AS PRESCRIBED BY SECTION 9-471, SUBSECTION H AND IF THE INCREASE IN TERRITORY DOES NOT RESULT IN A DISTRICT THAT COMPLETELY SURROUNDS A TERRITORY THAT IS IN AN UNINCORPORATED AREA OF THE COUNTY AND THAT IS NOT INCLUDED IN THE DISTRICT. FOR PURPOSES OF DETERMINING WHETHER THE ADDITION PROPOSED TO BE INCORPORATED INTO THE DISTRICT IS CONTIGUOUS, THE ADDITION IS DEEMED CONTIGUOUS NOTWITHSTANDING THAT LAND OWNED BY OR UNDER THE JURISDICTION OF THE GOVERNMENT OF THE UNITED STATES, THIS STATE OR ANY POLITICAL SUBDIVISION, OTHER THAN AN INCORPORATED CITY, INTERVENES BETWEEN THE PROPOSED ADDITION AND THE DISTRICT BOUNDARY. ANY WHOLE PARCEL MAY BE ADDED TO THE DISTRICT NOTWITHSTANDING THE PROVISIONS OF SECTION 9-471 REGARDING MINIMUM SIZE LIMITATIONS.

Ch. 248

D. If the impact statement described in subsection A of this section relates to the withdrawal of property from a district, in addition to the other requirements of subsection A of this section, the governing body shall also determine:

1. If the district has any existing outstanding bonds or other evidences of indebtedness.

2. If those bonds were authorized by an election and issued during the time the property to be withdrawn was lawfully included within the district.

E. If the conditions of subsection D of this section are met:

1. The property withdrawn from the district shall remain subject to taxes, special assessments or fees levied or collected to meet the contracts and covenants of the bonds. The board of supervisors shall provide for the levy and collection of such taxes, special assessments or fees.

2. The governing body shall:

(a) Annually determine the amount of special property taxes, special assessments or fees that must be levied and collected from property withdrawn from the district and the mechanism by which such amount is to be collected.

(b) Notify the board of supervisors on or before the third Monday in July of the amount determined in subdivision (a) of this paragraph.

3. Property withdrawn from an existing district shall not be subject to any further taxes, special assessments or fees arising from the indebtedness of such district except as provided in this subsection.

F. If the statement described in subsection A, paragraph 1 of this section requests the annexation of property located within an incorporated city or town, in addition to the other requirements of subsection A of this section, the governing body shall approve the district boundary change impact statement and authorize the circulation of petitions only if the governing body of the city or town has by ordinance or resolution endorsed such annexation and such annexation is authorized pursuant to this title.

G. Except as provided in subsection C of this section and section 48-2002, no change in the boundaries of a district pursuant to this section shall result in a district which contains area that is not contiguous.

H. Notwithstanding subsection A of this section, any property owner whose land is within a county that contains a sanitary district or fire district and whose land is adjacent to the boundaries of the sanitary district or fire district may request in writing that the governing body of the district amend the district boundaries to include that property owner's land. If the governing body determines that the inclusion of that property will benefit the district and the property owner, the boundary change may be made by order of the governing body and is final on the recording of the governing body's order that includes a description of the property that is added to the district. A petition and impact statement are not required for an amendment to a sanitary district's or fire district's boundaries made pursuant to this subsection.

I. For purposes of this section:

1. "Assessed valuation" does not include the assessed valuation of property that is owned by a county.

2. "Property owner" does not include a county.

EXPLANATION OF BLEND
SECTION 49-104

Laws 2001, Chapters 21 and 231

Laws 2001, Ch. 21, section 3 — Effective August 9

Laws 2001, Ch. 231, section 12 — Effective August 9

Explanation

Since these two enactments are not incompatible, the Laws 2001, Ch. 21 and Ch. 231 text changes to section 49-104 are blended in the form shown on the following pages.

BLEND OF SECTION 49-104
Laws 2001, Chapters 21 and 231

49-104. Powers and duties of the department and director

A. The department shall:

1. Formulate policies, plans and programs to implement this title to protect the environment.

2. Stimulate and encourage all local, state, regional and federal governmental agencies and all private persons and enterprises that have similar and related objectives and purposes, cooperate with those agencies, persons and enterprises and correlate department plans, programs and operations with those of the agencies, persons and enterprises.

3. Conduct research on its own initiative or at the request of the governor, the legislature or state or local agencies pertaining to any department objectives.

4. Provide information and advice on request of any local, state or federal agencies and private persons and business enterprises on matters within the scope of the department.

5. Consult with and make recommendations to the governor and the legislature on all matters concerning department objectives.

6. Make annual reports to the governor and the legislature on its activities, its finances and the scope of its operations.

7. Promote and coordinate the management of air resources to assure their protection, enhancement and balanced utilization consistent with the environmental policy of this state.

8. Promote and coordinate the protection and enhancement of the quality of water resources consistent with the environmental policy of this state.

9. Encourage industrial, commercial, residential and community
Ch. 21 — development ~~which~~ THAT maximizes environmental benefits and minimizes the effects of less desirable environmental conditions.

10. Assure the preservation and enhancement of natural beauty and man-made scenic qualities.

11. Provide for the prevention and abatement of all water and air pollution including that related to particulates, gases, dust, vapors, noise, radiation, odor, nutrients and heated liquids in accordance with article 3 of this chapter and chapters 2 and 3 of this title.

12. Promote and recommend methods for the recovery, recycling and reuse or, if recycling is not possible, the disposal of solid wastes consistent with sound health, scenic and environmental quality policies.

13. Prevent pollution through the regulation of the storage, handling
Ch. 21 — and transportation of solids, liquids and gases ~~which~~ THAT may cause or contribute to pollution.

14. Promote the restoration and reclamation of degraded or despoiled areas and natural resources.

15. Assist the department of health services in recruiting and training state, local and district health department personnel.

16. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.

17. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data AND CONDUCT PROJECTS IN THE UNITED STATES AND MEXICO on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess AND ENHANCE the economic competitiveness of this state and of the ~~state of Sonora, Mexico~~ ARIZONA-MEXICO REGION.

Ch. 231

B. The department, through the director, shall:

1. Contract for the services of outside advisers, consultants and aides reasonably necessary or desirable to enable the department to adequately perform its duties.

2. Contract and incur obligations reasonably necessary or desirable within the general scope of department activities and operations to enable the department to adequately perform its duties.

3. Utilize any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.

4. Adopt procedural rules that are necessary to implement the authority granted under this title, but that are not inconsistent with other provisions of this title.

5. Contract with other agencies including laboratories in furthering any department program.

6. Use monies, facilities or services to provide matching contributions under federal or other programs ~~which~~ THAT further the objectives and programs of the department.

Ch. 21

7. Accept gifts, grants, matching monies or direct payments from public or private agencies or private persons and enterprises for department services and publications and to conduct programs ~~which~~ THAT are consistent with the general purposes and objectives of this chapter. Monies received pursuant to this paragraph shall be deposited in the department fund corresponding to the service, publication or program provided.

8. Provide for the examination of any premises if the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed on the premises. The director shall give the owner or operator the opportunity for its representative to accompany the director on an examination of those premises. Within forty-five days after the date of the examination, the department shall provide to the owner or operator a copy of any report produced as a result of any examination of the premises.

9. Supervise sanitary engineering facilities and projects in this state, authority for which is vested in the department, and own or lease land on which sanitary engineering facilities are located, and operate the facilities, if the director determines that owning, leasing or operating is necessary for the public health, safety or welfare.

10. Adopt and enforce rules relating to approving design documents for constructing, improving and operating sanitary engineering and other facilities for disposing of solid, liquid or gaseous deleterious matter.

11. Define and prescribe reasonably necessary rules regarding the water supply, sewage disposal and garbage collection and disposal for subdivisions. The rules shall:

(a) Provide for minimum sanitary facilities to be installed in the subdivision and may require that water systems plan for future needs and be of adequate size and capacity to deliver specified minimum quantities of drinking water and to treat all sewage.

(b) Provide that the design documents showing or describing the water supply, sewage disposal and garbage collection facilities be submitted with a fee to the department for review and that no lots in any subdivision be offered for sale before compliance with the standards and rules has been demonstrated by approval of the design documents by the department.

12. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious conditions at such places. The rules shall prescribe minimum standards for the design of and for sanitary conditions at any public or semipublic swimming pool or bathing place and provide for abatement as public nuisances of premises and facilities ~~which~~ THAT do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of health services and shall be consistent with the rules adopted by the director of the department of health services pursuant to section 36-136, subsection H, paragraph ~~11~~ 10.

Ch. 21

13. Prescribe reasonable rules regarding sewage collection, treatment, disposal and reclamation systems to prevent the transmission of sewage borne or insect borne diseases. The rules shall:

(a) Prescribe minimum standards for the design of sewage collection systems and treatment, disposal and reclamation systems and for operating the systems.

(b) Provide for inspecting the premises, systems and installations and for abating as a public nuisance any collection system, process, treatment plant, disposal system or reclamation system ~~which~~ THAT does not comply with the minimum standards.

Ch. 21

(c) Require that design documents for all sewage collection systems, sewage collection system extensions, treatment plants, processes, devices, equipment, disposal systems, on-site wastewater treatment facilities and reclamation systems be submitted with a fee for review to the department and may require that the design documents anticipate and provide for future sewage treatment needs.

(d) Require that construction, reconstruction, installation or initiation of any sewage collection system, sewage collection system extension, treatment plant, process, device, equipment, disposal system, on-site wastewater treatment facility or reclamation system conform with applicable requirements.

14. Prescribe reasonably necessary rules regarding excreta storage, handling, treatment, transportation and disposal. The rules shall:

(a) Prescribe minimum standards for human excreta storage, handling, treatment, transportation and disposal and shall provide for inspection of premises, processes and vehicles and for abating as public nuisances any

Ch. 21——premises, processes or vehicles ~~which~~ THAT do not comply with the minimum standards.

(b) Provide that vehicles transporting human excreta from privies, septic tanks, cesspools and other treatment processes shall be licensed by the department subject to compliance with the rules.

15. Perform the responsibilities of implementing and maintaining a data automation management system to support the reporting requirements of title III of the superfund amendments and reauthorization act of 1986 (P.L. 99-499) and title 26, chapter 2, article 3.

16. Approve remediation levels pursuant to article 4 of this chapter.

C. The department may charge fees to cover the costs of all permits and inspections it performs to insure compliance with rules adopted under section 49-203, subsection A, paragraph 6, except that state agencies are exempt from paying the fees. Monies collected pursuant to this subsection shall be deposited in the water quality fee fund established by section 49-210.

D. The director may:

1. If he has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed, inspect any person or property in transit through this state and any vehicle in which the person or property is being transported and detain or disinfect the person, property or vehicle as reasonably necessary to protect the environment if a violation exists.

2. Authorize in writing any qualified officer or employee in the department to perform any act that the director is authorized or required to do by law.